

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

April 18, 1996

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 95-1904

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

JAMES ROBERT BRANT,

Petitioner-Appellant,

v.

**GORDON A. ABRAHAMSON, WARDEN,
JAMES E. DOYLE, ATTORNEY GENERAL,
GALE A. NORTON, ATTORNEY GENERAL,**

Respondents-Respondents.

APPEAL from an order of the circuit court for Dodge County:
THOMAS W. WELLS, Judge. *Affirmed.*

Before Eich, C.J., Gartzke, P.J., and Vergeront, J.

PER CURIAM. James Brant appeals from an order denying his petition for a writ of habeas corpus. His petition presented allegations concerning the constitutionality of his sentence, his transfer to an out-of-state prison and his conditions of confinement there. We affirm the trial court's order denying relief.

Brant was convicted on three counts of murder and one count of armed robbery in 1980. He served his prison sentence in Wisconsin prisons until 1992, when he was transferred to a Colorado prison pursuant to § 302.25, STATS., the Interstate Corrections Compact.

Brant's petition for habeas corpus named Gordon Abrahamson, the Superintendent at Dodge Correctional Institution, James Doyle, the Wisconsin Attorney General, and Gale Norton, the Colorado Attorney General, as respondents. He alleged that because § 302.25, STATS., did not take effect until after his convictions it is unconstitutional as applied to him, that his sentence was unconstitutional, and that various conditions of his present confinement are unconstitutional, including denial of access to Wisconsin legal material.

Any law which increases a defendant's sentence after the crime or otherwise makes it more burdensome is an unconstitutional *ex post facto* law. *State v. Thiel*, 188 Wis.2d 695, 703, 524 N.W.2d 641, 644 (1994). Here, Brant's transfer to Colorado did not alter his punishment or sentence to his detriment. It merely placed him in a different prison. In Colorado he is entitled to the same legal rights and treatment as if incarcerated in Wisconsin. Section 302.25(4)(e), STATS.

Brant has not shown that he is entitled to challenge his sentence by habeas corpus. Section 974.06(8), STATS., provides that habeas corpus is unavailable if Brant has an opportunity to file for relief under § 974.06. Brant has not alleged that he has been deprived of that opportunity. In any event, Dodge County is not the proper venue to raise the issue. Brant was not sentenced there and is not presently confined there.

There are many remedies available to challenge a prisoner's conditions of confinement, including administrative review, mandamus, prohibition, and a civil rights action under 42 U.S.C. § 1983. *bin-Rilla v. Israel*, 113 Wis.2d 514, 518 n.4, 335 N.W.2d 384, 387 (1983). However, no remedy is available against the named respondents. None of the respondents has any responsibility for the conditions of Brant's present confinement. None of the respondents has the authority to do anything about those conditions or to transfer Brant back to a Wisconsin institution. See § 302.26, STATS., (the

Secretary of the Department of Corrections performs all functions necessary or incidental to the Interstate Corrections Compact). Nor do the respondents have responsibility for providing Brant with legal materials.

Costs are assessed against Brant. Upon service of this decision and the order taxing costs, the appropriate officer of the institution in which the appellant is currently incarcerated shall deduct the amount of the costs from the total in the appellant's inmate account as of the date of this decision, and pay that amount to the respondents. Section 814.29(3)(b), STATS.

By the Court. – Order affirmed and costs awarded to respondents.

This opinion will not be published. See RULE 809.23(1)(b)5, STATS.