



OFFICE OF THE CLERK  
**WISCONSIN COURT OF APPEALS**

110 EAST MAIN STREET, SUITE 215  
P.O. BOX 1688  
MADISON, WISCONSIN 53701-1688  
Telephone (608) 266-1880  
TTY: (800) 947-3529  
Facsimile (608) 267-0640  
Web Site: [www.wicourts.gov](http://www.wicourts.gov)

**DISTRICT IV**

May 10, 2019

To:

Hon. James P. Daley  
Circuit Court Judge  
Rock County Courthouse  
51 S. Main St.  
Janesville, WI 53545

Jacki Gackstatter  
Clerk of Circuit Court  
Rock County Courthouse  
51 S. Main St.  
Janesville, WI 53545

John Blimling  
Assistant Attorney General  
P.O. Box 7857  
Madison, WI 53707-7857

David R. Karpe  
Karpe Law Office  
448 W. Washington Ave.  
Madison, WI 53703

David J. O'Leary  
District Attorney  
51 S. Main St.  
Janesville, WI 53545-3951

You are hereby notified that the Court has entered the following opinion and order:

---

2017AP2339-CR

State of Wisconsin v. Gregory Wells (L.C. # 2014CF251)

Before Lundsten, P.J., Sherman and Blanchard, JJ.

**Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).**

Gregory Wells appeals a judgment of conviction. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2017-18).<sup>1</sup> We affirm.

---

<sup>1</sup> All references to the Wisconsin Statutes are to the 2017-18 version unless otherwise noted.

Wells's arguments on appeal relate to the circuit court's denial of his request for appointment of a new attorney that he made on the day of trial. He first argues that the circuit court incorrectly found as a fact that Wells discharged his previous attorneys.

In particular, Wells argues that the court erred by saying that, although one prior attorney discharge was not Wells's fault, "[t]he other three, yes, you're the one who said I have to have a new attorney." When Wells then protested that he "didn't fire any of them," and they removed themselves, the court replied: "Because you said there was a breakdown in communication, and I asked you in court each and every time." The parties make specific arguments as to each previous attorney.

Regarding the first attorney, Wells argues that even though he acknowledged in court when that attorney moved to withdraw that it was "probably ... the case" that there had been a breakdown in communications, and that Wells and the attorney "haven't been coming to an agreement," Wells did not ask to have the attorney removed. Wells asserts that his statements in court showed that Wells believed his differences with this attorney could be worked out.

Wells is correct that he did not ask for this attorney to be removed, and he did not express agreement with the attorney's request. However, we conclude that Wells reads more into his comments than can reasonably be inferred. Wells acknowledged that communications had been difficult, and he did not oppose the attorney's request to withdraw. It was reasonable for the circuit court to infer later that Wells was at least accepting of the idea of removing this attorney, and was partly responsible for the breakdown in communications.

The second attorney moved to withdraw due to what he described as a "profound communication breakdown." The only response by Wells came when he affirmatively answered

the court's question about whether he understood what was going on. Wells argues that this record is insufficient to conclude that he was in agreement with the attorney's request to withdraw or agreed that there was a communication problem.

We conclude that it was reasonable for the circuit court to later regard Wells's response as agreement or acceptance. If Wells had disagreed, the court's question gave him an opportunity to say so, by saying that he did not understand why the attorney was making this request.

As to the third attorney, Wells agrees that he did ask to replace this one. The parties agree that the fourth attorney withdrew after accepting a different job. The fifth attorney was the one who represented Wells at trial, and whose attempted removal by Wells is the subject of this appeal.

In summary, then, we conclude that the circuit court's finding was not clearly erroneous. Wells is correct that the court somewhat overstated the record of the previous withdrawals by saying that it was Wells who asked for a new attorney each time. However, of the three attorneys who are relevant to this issue, Wells unambiguously asked for replacement of one, and the court could reasonably infer that, as to the other two, Wells was either in agreement with, or accepting of, their removal.

Wells also argues that the court erroneously exercised its discretion in applying the factors the court is to consider in reviewing a request to appoint new counsel and an associated request for a continuance. Without attempting to discuss each factor separately here, we are satisfied that the court did not erroneously exercise its discretion. None of the factors weighed heavily in Wells's direction, and several factors were strongly against him, such as the lateness

of the request, Wells's prior difficulties with attorneys, and the potential inconvenience to the State and its witnesses who were present.

Therefore,

IT IS ORDERED that the judgment is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

---

*Sheila T. Reiff*  
*Clerk of Court of Appeals*