

**WISCONSIN SUPREME COURT
CALENDAR AND CASE SYNOPSES
DECEMBER 2024**

The cases listed below will be heard in the Supreme Court Hearing Room, 231 East, State Capitol.

MONDAY, DECEMBER 9, 2024

9:45 a.m. 23AP1950 State v. H. C.

Note: The Supreme Court calendar may change between the time you receive it and when a case is heard. It is suggested that you confirm the time and date of any case you are interested in by calling the Clerk of the Supreme Court at (608) 266-1880. If your news organization is interested in providing any type of camera coverage of Supreme Court oral argument, you must contact media coordinator Jason Cuevas at WISC-TV, (608) 277-5241. The synopses provided are not complete analyses of the issues presented.

WISCONSIN SUPREME COURT

December 9, 2024

9:45 a.m.

23AP1950

State v. H. C.

This is a review of a decision by the Wisconsin Court of Appeals, District I (headquartered in Milwaukee), which affirmed a Milwaukee County Circuit Court order, Judge Joseph R. Wall presiding, terminating the parental rights of H.C. to her child.

The case involves the constitutionality of Wisconsin's statutory framework for the disposition phase in termination of parental rights (TPR) proceedings. H.C. argues that Wis. Stat. § 48.426 is unconstitutional because it does not require a specific burden of proof for determining whether terminating parental rights is in the child's best interest. H.C. contends that due process mandates the state to prove this by a defined standard of certainty. She further asserts that if the statutory scheme is unconstitutional, she is entitled to a new disposition hearing with an appropriate burden of proof applied.

The Milwaukee County Circuit Court, having held a hearing and reviewed evidence from case managers, foster care providers, and other involved parties, found it was in John's best interest to terminate H.C.'s parental rights. The court based its decision on statutory factors, including John's stability and well-being in his foster placement, where he was receiving necessary care. The Court of Appeals upheld the termination, concluding that a preponderance of the evidence standard satisfies due process requirements and that the circuit court had not erred in determining that termination was in John's best interest.

The issues for the Supreme Court to decide are:

- 1) Is the statutory scheme controlling the disposition phase in a termination of parental rights proceeding unconstitutional on its face because it violates procedural due process by not requiring the petitioner to prove that termination is in the best interest of the child by a certain level of proof?
- 2) If the statutory scheme controlling the disposition phase in a termination of parental rights proceeding is unconstitutional because it does not require the petitioner to prove that termination is in the best interest of the child by a certain level of proof, is a parent whose rights were terminated under the unconstitutional statute entitled to a new disposition hearing?