WISCONSIN SUPREME COURT
CALENDAR AND CASE SYNOPSES
FEBRUARY 2025

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

Columbia
Dane
Rock
Winnebago

TUESDAY, FEBRUARY 11, 2025

9:45 a.m.	22AP959-CR	State v. Luis A. Ramirez
11:00 a.m.	23AP645-CR	State v. Carl Lee McAdory

WEDNESDAY, FEBRUARY 12, 2025

9:45 a.m.	24AP717	Service Employees International Union Healthcare Wisconsin v. Wisconsin Employment Relations Commission

THURSDAY, FEBRUARY 13, 2025

9:45 a.m.	23AP70-FT	Scot Van Oudenhoven v. Wisconsin Department of Justice

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
February 11, 2025
9:45 a.m.

22AP959-CR State v. Luis A. Ramirez

This is a review of a decision by the Wisconsin Court of Appeals, District IV (headquartered in Madison), which reversed and remanded a Columbia County Circuit Court ruling, Judge W. Andrew Voight presiding. The case examines whether Luis A. Ramirez's constitutional right to a speedy trial was violated under the framework established by Barker v. Wingo.

The case arose after Ramirez, who was already serving a prison sentence, was charged with battery by a prisoner and disorderly conduct. The charges stemmed from an incident in which Ramirez allegedly assaulted a correctional officer. Over the course of approximately 46 months, Ramirez's trial was rescheduled multiple times, with delays attributed to a range of factors, including scheduling conflicts, prosecutorial turnover, and Ramirez's own legal motions.

Ramirez asserted his right to a speedy trial through two pro se motions. The circuit court found these assertions were undermined by accompanying requests, including motions for discovery and a change of venue, which the court determined were inconsistent with a clear desire for a speedy trial. The circuit court ultimately ruled that while delays occurred, they did not rise to the level of a constitutional violation.

The Court of Appeals reversed the circuit court's ruling, finding that the delays—some of which were insufficiently justified—reflected what it described as a "cavalier disregard" for Ramirez's right to a speedy trial. In applying the *Barker v. Wingo* balancing test, the appellate court determined that the length of the delay, the reasons for it, and Ramirez's assertion of his right to a speedy trial outweighed any lack of prejudice to Ramirez caused by the delay.

The Wisconsin Supreme Court granted review to address the following issues:

1) Did the court of appeals create a new requirement departing from [1]Barker and other precedent?
   a. How should a reviewing court weigh a defendant's pro se requests, particularly where counsel never renews them and counsel never objects to adjournments?
   b. How should a reviewing court treat a circuit court's findings that a defendant did not want a speedy trial when those findings are based in part on credibility determinations?
2) Did the court of appeals correctly hold that the State showed a "cavalier disregard" for Ramirez's constitutional speedy trial rights where the State offered explanations for every adjournment, the court and parties were actively preparing for trial, Ramirez never made a speedy trial demand through counsel, he was in prison on another conviction while the case was pending, and the circuit court determined that Ramirez never wanted a speedy trial and was not prejudiced?

[1] *Barker v. Wingo, 407 U.S. 514 (1972).*

WISCONSIN SUPREME COURT
February 11, 2025
11:00 a.m.

23AP645-CR State v. Carl Lee McAdory

This is a review of a decision by the Wisconsin Court of Appeals, District IV (headquartered in Madison), affirming a Rock County Circuit Court ruling, Judge Karl Hanson presiding. The case examines whether a circuit court has the authority to reinstate a dismissed conviction after an appellate court reverses a related conviction, and whether such reinstatement violates double jeopardy protections or appellate procedural rules.

The case arises from an incident in which Carl Lee McAdory was charged and convicted of two offenses: operating while intoxicated (OWI) and operating with a restricted controlled substance (RCS) in his blood. Under Wisconsin law, a person may be charged with multiple OWI-related offenses stemming from the same incident but may only be convicted and sentenced for one. After the jury returned guilty verdicts on both charges, the State moved to dismiss the RCS charge as duplicative, and the court imposed a sentence on the OWI charge.

McAdory appealed his OWI conviction, and the Wisconsin Court of Appeals reversed the conviction and ordered a new trial. On remand, instead of retrying McAdory on the OWI charge, the circuit court reinstated the previously dismissed RCS conviction and sentenced him based on that charge.

McAdory challenged this decision, arguing that the circuit court lacked authority to reinstate the dismissed RCS conviction, that the State forfeited its ability to seek such reinstatement by failing to cross-appeal the dismissal, and that reinstating the charge violated his constitutional protection against double jeopardy.

The Court of Appeals upheld the circuit court's actions, concluding that Wisconsin Statute §346.63(1)(c) implicitly authorized the reinstatement to ensure a single conviction under Wisconsin's impaired driving laws. The appellate court also rejected McAdory's double jeopardy claim, reasoning that reinstating a dismissed charge based on a jury verdict does not constitute a second prosecution.

The Wisconsin Supreme Court granted review to address the following issues:

1) Does Wis. Stat. § 346.63(1)(c) grant circuit courts the post-remittitur authority to reopen judgments of conviction, vacate post-jeopardy orders dismissing § 346.63(1) counts at the State's request, and reinstate and convict defendants on those counts?
2) 2. When a defendant appeals from a judgment of conviction, seeking to have his conviction on a count reversed, the State becomes a respondent on appeal. If, in the event the defendant's appeal succeeded, the State wished to have an order dismissing a different count vacated and further wished to have the judgment of conviction reopened and modified to have the defendant convicted on the previously-dismissed count, must the State have filed a notice of cross appeal under Wis. Stat. Rule 809.10(2)(b)? Alternatively, must the State have raised this request as an alternate ground for relief in its briefing on the defendant's appeal, as provided in State v. Alles, 106 Wis. 2d 368,

390-91, 316 N.W.2d 378 (1982)?

3) 3. Can a circuit court reinstate a count on which the defendant was found guilty but which the State moved to have dismissed after jeopardy attached, consistent with the defendant's protections against double jeopardy and his interest in the finality of judgments?

WISCONSIN SUPREME COURT
February 12, 2025
9:45 a.m.

24AP717 Service Employees International Union Healthcare Wisconsin v. Wisconsin Employment Relations Commission

The Wisconsin Supreme Court accepted jurisdiction of this case following a bypass of the Court of Appeals. This is a review of a decision by the Dane County Circuit Court, Judge Jacob B. Frost presiding, which upheld the Wisconsin Employment Relations Commission's (WERC) ruling that the Wisconsin Employment Peace Act (Peace Act) does not apply to the University of Wisconsin Hospitals and Clinics Authority (UWHCA).

This case concerns whether the Wisconsin Employment Peace Act (Peace Act) applies to the University of Wisconsin Hospitals and Clinics Authority (UWHCA), granting its employees collective bargaining rights. The Service Employees International Union Healthcare Wisconsin (SEIU) argues that UWHCA is still covered under the Peace Act despite statutory changes made through Act 10 in 2011.

UWHCA was originally classified as an employer under the Peace Act when it was established in 1996. However, Act 10, which significantly restructured public sector labor relations in Wisconsin, removed UWHCA from the statutory definition of an employer covered by the Peace Act. SEIU contends that the current language of the Peace Act does not explicitly exclude UWHCA, and therefore, its employees retain the right to collective bargaining.

The Wisconsin Employment Relations Commission (WERC) and the circuit court disagreed, concluding that the statutory changes made under Act 10 reflect the legislature's clear intent to exclude UWHCA from the Peace Act. The courts determined that UWHCA employees no longer have collective bargaining rights under current law.

The Wisconsin Supreme Court granted the petition to bypass to address the following issue:

- Does the Wisconsin Employment Peace Act, Wis. Stat. § 111.02 [2]et seq.,apply to the University of Wisconsin Hospitals and Clinics Authority, a political corporation and "body corporate and politic," and its employees and their chosen representatives?

[2]*The Peace Act defines "employer" broadly to mean "a person who engages the services of an employee." Wis. Stat. § 111.02(7)(a).*

WISCONSIN SUPREME COURT
February 13, 2025
9:45 a.m.

23AP70-FT Scot Van Oudenhoven v. Wisconsin Department of Justice

This case is before the court on petition for review from the Wisconsin Court of Appeals, District III (headquartered in Wausau), seeking Supreme Court review of an order of the Winnebago County Circuit Court, Judge Teresa S. Basiliere presiding, that upheld the Wisconsin Department of Justice's (DOJ) denial of a firearm purchase by Scot Van Oudenhoven.

The case examines whether a conviction expunged under Wisconsin law qualifies as an "expungement" under federal firearm statutes, specifically 18 U.S.C. § 921(a)(33)(B)(ii). Van Oudenhoven was convicted of misdemeanor battery in 1994, which federal law classifies as a "misdemeanor crime of domestic violence." Federal law prohibits individuals convicted of such offenses from possessing firearms unless their conviction has been expunged or set aside, provided the expungement does not limit the individual's ability to possess firearms.

Van Oudenhoven's conviction was expunged under Wisconsin law, which allows for the expungement of certain offenses upon satisfying specific conditions. However, Wisconsin expungements do not fully erase all effects of a conviction, as certain records are retained and not all rights are restored. When Van Oudenhoven attempted to purchase a firearm, the Wisconsin DOJ denied the request, arguing that his expungement did not meet the federal standard for restoring firearm possession rights.

The Court of Appeals affirmed the DOJ's decision, citing State v. Braunschweig (2018), which established that Wisconsin expungements do not eliminate all legal consequences of a conviction. Van Oudenhoven argues that his expungement satisfies federal law and contends that Wisconsin's unique approach to expungements should qualify under federal standards.

The Wisconsin Supreme Court granted review to address the following issue:

- Whether an expungement under Wisconsin law qualifies as an "expungement" as that term is used in 18 U.S.C. § 921(a)(33)(B)(ii).