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Wisconsin Supreme Court accepts three cases at January 16 conference

Madison, Wisconsin (February 10, 2025) – The Wisconsin Supreme Court recently voted to accept three cases, and the Court acted to deny review in a number of other cases at its January 16, 2025 conference. The case numbers, counties of origin and the issues presented in granted cases are listed below. More information about pending appellate cases can be found on the Wisconsin Supreme Court and Court of Appeals Access [website](#). Published Court of Appeals opinions can be found [here](#), and the status of pending Supreme Court cases can be found [here](#).

No. 2022AP790

[Kaul v. Wisconsin State Legislature](#)

Supreme Court case type: Petition for Review

Court of Appeals: District II

Circuit Court: Dane County, Judge Susan M. Crawford. *Reversed*.

Long caption: Josh Kaul, Wisconsin Department of Justice, Tony Evers and Katy Koltin Blumenfeld, Plaintiffs-Respondents-Petitioners, v. Wisconsin State Legislature, Wisconsin State Legislature Joint Committee on Finance, Chris Kapenga, Devin LeMahieu, Robin Vos, Tyler August, Howard L. Marklein, Mark Born, Duey Stroebel and Terry Katsma, Defendants-Appellants-Respondents.

Issue(s) presented:

- Does Wisconsin Stat. § 165.08(1) violate the Wisconsin Constitution's separation of powers as applied to the categories of:
 - (1) civil enforcement actions; and
 - (2) civil actions prosecuted on behalf of executive agencies regarding the administration of programs the agencies are charged with executing?

Supreme Court case type: Petition for Review

Court of Appeals: District II

Circuit Court: Waukesha County, Judge Paul Bugenhagen, Jr. *Affirmed.*

Long caption: State of Wisconsin, Plaintiff-Respondent-Respondent v. Kordell L. Grady, Defendant-Appellant-Petitioner.

Issue(s) presented:

1. The circuit court chose to conduct a contested restitution hearing as a “hybrid” procedure: Mr. Grady, the mentally ill criminal defendant, appeared via Zoom from prison. His lawyer, the assistant district attorney, and the judge all appeared in-person. During the hearing, Mr. Grady asked to speak to his lawyer. The court went “off the record” to facilitate that request, but made no attempt to ensure a confidential line of communication. The State, after listening in on Mr. Grady’s conversation with his attorney, used his comments to support its restitution argument. Does this procedure necessitate a remand for a new restitution hearing?
2. May an insurance company be awarded restitution equivalent to the deductible paid by an insured when that insured has not filed a request for restitution?

Supreme Court case type: Petition for Bypass

Court of Appeals: District I

Circuit Court: Dane County, Judge Stephen E. Ehlke

Long caption: Wisconsin State Legislature, Plaintiff-Counterclaim Defendant-Respondent-Cross Appellant, v. Wisconsin Department of Public Instruction and Tony Evers, Defendants-Counterclaim Plaintiffs-Appellants-Cross Respondents.

Issue(s) presented:

1. Was 2023 Senate Bill 971, the bill that became 2023 Wis. Act 100, an "appropriation bill" under article V, § 10(1)(b), such that the Governor validly partially vetoed it?

2. Assuming S.B. 971 was an "appropriation bill," did the Governor's partial veto otherwise comply with article V, § 10(1)(b)?
 3. Can JCF, consistent with article VIII, § 2, and Wis. Stat. § 13.101, withhold from DPI the \$50 million the budget bill set aside for DPI's literacy programs and credited to JCF's "emergency" appropriation?
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Review denied: The Supreme Court denied review in the following cases. As the state's law-developing court, the Supreme Court exercises its discretion to select for review only those cases that fit certain [statutory criteria](#) (see Wis. Stat. § 809.62). Except where indicated, these cases came to the Court via petition for review by the party who lost in the lower court:

Ashland County

2024AP1332-W

Monkelien v. Circuit Court of Ashland County

Bayfield County

2022AP1241

Majchrzak v. Bayfield County

[Justice R. Bradley and Justice Hagedorn dissent]

Brown County

2023AP826

Demars v. Fincantieri Marine Group, LLC

Calumet County

2024AP458

Wisconsin Dairy Alliance Inc. v. Wisconsin DNR

Columbia County

2022AP702

State v. Zander

2023AP1346-CR

2023AP78
2023AP1339

Savich v. Columbia County Board of Adjustments
[Chief Justice Ziegler did not participate]

2023AP418

State v. Frazier

Dane County

2022AP918-CR

State v. Bodie

2022AP1968

Sierra Club v. Public Service Commission of Wisconsin
[Justice R. Bradley dissents]

2024AP1267

Dane County v. L.D.D.

Dodge County

2023AP467

State v. Kupsky

Door County

2023AP605
2023AP1411

Zahran v. Rademacher

Douglas County

2022AP1218-CR

State v. Mudrak

Fond du Lac County

2024AP553

Fond du Lac County DSS v. T.P.W., Jr.

2024AP2187-W

Gubin v. Circuit Court for Fond du Lac County
(Supervisory Writ)

Green County

2023AP396-CR

State v. Anderson
[Chief Justice Ziegler did not participate]

Kenosha County

2023AP487

State v. Threlkeld

La Crosse County

2022AP1946-CRNM

State v. Simmons

2024AP1064

Munson Realty, Inc. v. Devine

Marathon County

2021AP1350-CR

State v. Voss

2021AP1351-CR

2023AP58

Kaiser v. Townline CTH-N LLC

Marinette County

2022AP1515

Flambeau Hydro, LLC v. Park Falls Industrial
Management, LLC

Milwaukee County

2020AP1728-CR

State v. Robinson

2022AP993	<u>Tri-Corp Housing, Inc. v. Bauman</u>
2022AP1144	<u>Gagliano v. Quad/Graphics, Inc.</u>
2022AP1440	<u>Mueller v. TL90108, LLC</u> [Justice Dallet did not participate]
2022AP1797 2022AP1798-CR	<u>State v. Casper</u>
2023AP147-CR	<u>State v. Blakes</u>
2023AP283-CR	<u>State v. Clayborn</u>
2023AP844-CR	<u>State v. McGee</u>
2023AP2048-CR	<u>State v. Wyatt</u>
2024AP180	<u>State v. J.S.</u>
2024AP414	<u>State v. B.M.</u>
2024AP597	<u>State v. N.H.</u>
2024AP1271	<u>State v. T.H.-M.</u>
2024AP1350	<u>State v. S.O.</u>
2024AP1416 2024AP1417 2024AP1418	<u>State v. C.M.</u>
<u>Ozaukee County</u>	
2024AP759-FT	<u>Ozaukee County v. S.S.</u>

Polk County

2023AP520

Alden Associates v. Curry

Rock County

2023AP1792

State v. McEachin

Sauk County

2024AP236

Hawley v. Cromwell (Bypass)

Sheboygan County

2024AP907

Sheboygan County DH & HS v. A.W., Sr.

Waukesha County

2023AP1057

Bevco Precision Mfg. Co. v. Wisconsin Labor and
Industry Review Comm'n

2024AP1543

Hetzner v. Baierl

2024AP1622

Waukesha County DH & HS v. M.M.M.

Waupaca County

2023AP1383

Kuhnke v. Waupaca County Sheriff's Department

Winnebago County

2022AP1710

State v. Reid

2023AP764

Freude v. Berzowski
[Justice R. Bradley dissents]