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Wisconsin Supreme Court accepts three cases at September 11 conference

Madison, Wisconsin (September 20, 2024) – The Wisconsin Supreme Court recently voted to accept three cases, and the Court acted to deny review in a number of other cases. 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. 2022AP718

Wisconsin Manufacturers & Commerce v. WDNR

Supreme Court case type: Petition for Review

Court of Appeals: District II

Circuit Court: Waukesha County, Judge Michael O. Bohren, affirmed.

Long caption: Wisconsin Manufacturers and Commerce, Inc. and Leather Rich, Inc., Plaintiffs-Respondents, v. Wisconsin Natural Resources Board, Wisconsin Department of Natural Resources and Preston Cole, Defendants-Appellants-Petitioners.

Issue(s) presented:

1. May responsible parties avoid investigating and remediating discharges of hazardous substances like PFAS (and potentially others) unless and until the Department promulgates rules designating those substances as "hazardous" and the concentrations at which they qualify as such?

2. Did the DNR have to promulgate an administrative rule before it exercised its discretion to pause granting the broadest liability exemption?

3. Does Wis. Stat. § 227.10(2m) independently prevent the DNR from administering the Spills Law until it promulgates administrative rules listing all substances it considers to be "hazardous" and at what concentration they qualify as such?

No. 2023AP1950

State v. H.C.

Supreme Court case type: Petition for Review

Court of Appeals: District I

Circuit Court: Milwaukee County, Judge Joseph R. Wall, *affirmed*.

Long caption: In re the termination of parental rights to H. C., a person under the age of 18: State of Wisconsin, Petitioner-Respondent, v. H. C., Respondent-Appellant-Petitioner.

Issue(s) presented:

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?
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No. 2024AP351

Wisconsin Elections Commission v. LeMahieu

Supreme Court case type: Petition for Review

Court of Appeals: District II

Circuit Court: Dane County, Judge Ann Peacock.

Long caption: Wisconsin Elections Commission and Meagan Wolfe, Plaintiffs-Respondents, v. Devin LeMahieu, Robin Vos and Chris Kapenga, Defendants-Appellants.

Issue(s) presented:

Whether the WEC has a legal duty under Wis. Stat. § 15.61(1)(b)1. to make an appointment of an administrator for a new term following the expiration of the administrator's term when the administrator is lawfully holding over.

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

2021AP186-CRNM State v. Nelis

Brown County

2023AP706-W Mineau v. Circuit Court of Brown County

2024AP1128-OA Aguirre-Hodge v. Evers [Petition for Original Action]

Crawford County

2022AP1229-CR State v. Kornmeyer

Dane County

2021AP1028-CRNM State v. Davis

2022AP39 State v. Beasley

2022AP1076 Mitchell v. Buesgen
[Justice Dallet dissenting]

2023AP189-CR State v. Plunkett

2023AP1660 DSG Evergreen Family Limited Partnership v. Town of Perry

2023AP1660 Lush v. Rybroek
[Petition for Writ of Habeas Corpus]

2023AP1660 Dane County v. J.B.

Douglas County

2022AP141 Douglas County v. M.L.
[Justice Ann Walsh Bradley dissenting]

2022AP1807-1809-CRNM State v. Becker

2022AP2094-CR State v. Schwartz

Eau Claire County

2024AP1226-W McReynolds v. Circuit Court for Eau Claire County
[Petition for Supervisory Writ]

Grant County

2023AP636-CR State v. Hogenson

Kenosha County

2024AP1397-W Washington v. Circuit Court for Kenosha County
[Petition for Writ of Prohibition]

La Crosse County

2022AP1735-CR State v. Moore

2023AP617-CR State v. East

2023AP1796 State v. Ahmed

Manitowoc County

2022AP161-CR State v. Hauschultz

2024AP720-W State v. Heiden

2024AP720-W Logan v. Circuit Court for Manitowoc County
[Petition for Supervisory Writ]

Marinette County

2022AP514 TJ Prop LLC v. Tim Mueller, Mason Contractor, LLC
[Justice Ann Walsh Bradley dissenting]

2022AP882 State v. Vannieuwenhoven

2022AP989 State v. Husbeck

2023AP420 Graef v. Applied Underwriters
[Justice Rebecca Grassl Bradley dissenting]

Marquette County

2022AP1370 State v. Bauer

Milwaukee County

2022AP947 Stingley v. Laczkowski

2022AP1142-CR State v. Higgins
[Justice Protasiewicz did not participate]

2022AP1610-CR State v. Gilliam

2022AP1633-CR State v. Hill

2022AP1786 Estate of Angel Castillo-Rivera v. Brown

2022AP1806 State v. Foster
[Justice Protasiewicz did not participate]

2023AP243 State v. Mays

2023AP968-CR State v. Scott

2023AP2084-W Lanier-Cotton v. Meisner
[Justice Protasiewicz did not participate]

2024AP251-W Robertson v. Circuit Court of Milwaukee County

2024AP395 State v. E.S.
2024AP396

2024AP625-W Simpson v. Boughton

Outagamie County

2022AP2186 Outagamie County v. C.J.A.

Ozaukee County

2023AP1119 State v. Stibbe
2023AP1120-CR

Portage County

2023AP1237 Portage County v. D.A.
2023AP1255
2023AP1272

Racine County

2022AP1242-CR State v. Flores

2024AP770 Williams v. Circuit Court for Racine County
[Petition for Supervisory Writ]

2024AP1310-W Sanders v. Circuit Court for Dane County
[Petition for Supervisory Writ]

Rock County

2022AP1048 State v. Byrd

2023AP647-CR State v. Brown

Sauk County

2022AP1679 Estate of Katherine A. Fargen v. Thomas G. Fargen

St. Croix County

2022AP1479

Schottler v. DOT Secretary

Walworth County

2022AP1052-CR

State v. Shellie

Washington County

2022AP1444-CR

State v. Lawrence

Waukesha County

2023AP119

McGarry v. Zambo

2023AP1040-LV

Baierl v. Baierl

2023AP1169

[Justices Dallet and Karofsky dissenting]

2023AP1776

Baierl v. Baierl

[Justice Karofsky dissenting]

Winnebago County

2022AP1623-CRNM

State v. Immel

2022AP1931-CR

State v. Streiter

2023AP1798

Winnebago County v. A.F.H.