

# Wisconsin Supreme Court and Court of Appeals Case Access

**State v. Aaron A. Allen**

**Appeal Number 2007AP000795**

**Supreme Court**

## CASE HISTORY

Status	Court	Filing Date	Anticipated Due Date	Activity
OCCD	SC	03-11-2011		Letter/Correspondence Comment: From U.S. Supreme Court Clerk's Office: petition for writ of certiorari denied 3/7/11. cjp
OCCD	SC	12-07-2010		Remittitur
OCCD	SC	07-21-2010		Motion for Reconsideration Filed By: Robert Henak Submit Date: 8-4-2010 Decision: (D) Deny Decision Date: 10-19-2010 IT IS ORDERED the motion for reconsideration is denied without costs. Motion Response Filed By: William Gansner Submit Date: 8-4-2010
OCCD	SC	07-16-2010		Cites 328 Wis. 2d 1
OCCD	SC	07-16-2010		Cites 786 N.W.2d 124
OCCD	SC	07-16-2010		<a href="#">Opinion/Decision</a> Judge Panel: Abrahamson, Bradley, Crooks, Prosser, Roggensack, Ziegler, Gableman Opinion: Opinion Decision: Affirmed Pages: 35 Written by: Prosser, David T. Jr. Abrahamson, Shirley S. Wrote Concurring Opinion 8 pages. Bradley, Ann Walsh Joined Concurring Opinion Order Text: The decision of the court of appeals is affirmed.
OCCD	SC	07-15-2010		Public Domain Citation Comment: PDC No: 2010 WI 89

OCCD SC	04-28-2010	Oral Argument
OCCD SC	04-27-2010	Briefs Received At State Law Library
OCCD SC	04-23-2010	Certificate of Filing by Mail
OCCD SC	04-23-2010	Response
OCCD SC	04-22-2010	Reply Brief-Supreme Court <a href="#">Reply Brief - Supreme Court</a>
Filed By: Robert Henak		
OCCD SC	04-13-2010	Response Brief-Supreme Court <a href="#">Response Brief - Supreme Court</a>
Filed By: William Gansner		
OCCD SC	04-08-2010	Motion to Extend Time
Filed By: William Gansner Submit Date: 4-8-2010 Decision: (G) Grant Decision Date: 4-9-2010 IT IS ORDERED that the motion is granted. Plaintiff-respondent's response shall be served and filed on or before April 13, 2010. See BR2 event due on 4-13-2010		
OCCD SC	04-01-2010	Letter/Correspondence
Comment: Letter from AAG Gansner re: appellate briefs		
OCCD SC	04-01-2010	Motion to Extend Time
Filed By: William Gansner Submit Date: 4-1-2010 Decision: (G) Grant Decision Date: 4-2-2010 IT IS ORDERED the motion is granted. Plaintiff-respondent's response brief shall be served and filed on or before 4/8/10. See BR2 event due on 4-5-2010		
OCCD SC	03-26-2010	Briefs Received At State Law Library
OCCD SC	03-18-2010	Other Papers
Comment: Receipt of OA Assignment from Robert Henak		
OCCD SC	03-15-2010	First Brief-Supreme Court <a href="#">First Brief - Supreme Court</a>
Filed By: Robert Henak		

OCCD SC	02-26-2010	Assigned-Oral Argument
OCCD SC	02-11-2010 322 Wis. 2d 372	Cites
OCCD SC	02-11-2010 778 N.W.2d 863	Cites
OCCD SC	02-11-2010	Court Order
<p>Per Curiam Opinion; The members of the court disagree as to the disposition of petitioner Aaron Antonio Allen's motions for the recusal of Justice Michael J. Gableman citing the Fourteenth Amendment of the United States Constitution; Article I, Sections 1 and 8 of the Wisconsin Constitution; and Wis. Stat. 757.19(2)(g). On February 4, 2010, Justice Michael J. Gableman informed the members of the court that he was withdrawing from participation in the court's consideration of Allen's recusal motions and was withdrawing his separate written opinion. Only six justices are therefore participating. Three justices, Chief Justice Shirley S. Abrahamson, Justice Ann Walsh Bradley, and Justice N. Patrick Crooks, would order briefs and oral argument, as the parties have requested. Three justices, Justice David T. Prosser, Justice Patience Drake Roggensack, and Justice Annette Kingsland Ziegler, would issue an order denying the motions. Chief Justice Abrahamson and Justices Bradley and Crooks write in support of their proposed disposition. Justice Roggensack, joined by Justices Prosser and Ziegler, writes in support of their proposed disposition. Individual writings by Justices Crooks, Prosser, and Ziegler are also filed. Because the members of the court disagree as to the disposition of Allen's motions as set forth above, the motions are not granted. No four justices have agreed to grant the motions.</p>		
OCCD SC	02-11-2010 Comment: PDC No: 2010 WI 10	Public Domain Citation
OCCD SC	01-15-2010	Court Order
<p>IT IS ORDERED that the motion to Justice Michael J. Gableman individually is hereby denied.</p>		
OCCD SC	09-21-2009	Motion for Miscellaneous Relief
<p>Filed By: Robert Henak  Submit Date: 9-21-2009  Decision: (N) No Action  Decision Date: 2-11-2010  No action; SEE 2/11/10 CTO  Motion Response  Filed By: William Gansner  Submit Date: 10-5-2009  Motion Response  Filed By: Robert Henak  Submit Date: 12-11-2009  Motion Response  Filed By: William Gansner  Submit Date: 12-21-2009</p>		
OCCD SC	08-13-2009	Additional Authorities

OCCD SC 04-17-2009 Letter/Correspondence  
Comment: Letter from Atty. Henak re: copies of appellate briefs

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OCCD SC 04-17-2009 Motion to Extend Time

Filed By: Robert Henak  
Submit Date: 4-17-2009  
Decision: (O) Other  
Decision Date: 2-12-2010

IT IS ORDERED that within 30 days after the date of this order the defendant-appellant-petitioner, Aaron Antonio Allen, must file a brief in this court; that within 20 days of filing the plaintiff-respondent, State of Wisconsin, must file either a brief or a statement that no brief will be filed; and that if a brief is filed by the plaintiff-respondent, within 10 days of filing the defendant-appellant-petitioner must file either a reply brief or a statement that no reply brief will be filed; and IT IS FURTHER ORDERED that in any brief filed in this court the parties shall not incorporate by reference any portion of their court of appeals' brief or petition for review or response; instead, any material in these documents upon which there is reliance should be restated in the brief filed in this court; and IT IS FURTHER ORDERED that the first brief filed in this court must contain, as part of the appendix, a copy of the decision of the court of appeals in this case; and IT IS FURTHER ORDERED that, if they have not done so, within 30 days after the date of this order, each party must provide the clerk of this court with 10 copies of the brief previously filed on behalf of that party in the court of appeals; and IT IS FURTHER ORDERED that oral argument in this case will be scheduled

Motion Response  
Filed By: William Gansner  
Submit Date: 4-28-2009  
See BR1 event due on 4-17-2009

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OCCD SC 04-17-2009 Motion for Miscellaneous Relief

Filed By: Robert Henak  
Submit Date: 4-17-2009  
Decision: (D) Deny  
Decision Date: 9-10-2009  
IT IS ORDERED the motion to Justice Michael J. Gableman individually is hereby denied.  
Motion Response  
Filed By: William Gansner  
Submit Date: 4-28-2009

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OCCD SC 04-15-2009 Letter/Correspondence  
Comment: Letter from AAG Gansner re: copies of appellate briefs

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OCCD SC 03-18-2009 Caption Amended

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OCCD SC 03-18-2009 Court Changed to Supreme Court

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OCCD CA 11-05-2008 Attorney Change

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OCCD SC 10-13-2008 Court Order

IT IS ORDERED that the Attorney Robert Henak shall serve as counsel for defendant-appellant-petitioner. Attorney Henak's representation shall be on a pro bono basis and not subject to compensation under SCR ch. 81. The court notes that Aaron Antonio Allen has given his consent to be represented by Attorney Henak;

IT IS FURTHER ORDERED that the defendant-appellant-petitioner is directed to file a supplemental petition on or before January 5, 2009, to address whether the following issues are presented in Allen's case, and, if so, to include discussion of State v. Fortier, 2006 WI App 11, 289 Wis. 2d 179, 709 N.W.2d 893, State v. Tillman, 2005 WI App 71, 281 Wis. 2d 157, 696 N.W.2d 574, and Page v. Frank, 343 F.3d 901 (7th Cir. 2003), with respect to the following issues:

1. Whether the no-merit procedure requires a defendant to file a response to avoid waiver of subsequent claims of error;
2. Whether appointed counsel is required to advise the defendant that a response to a no-merit report is necessary to preserve claims for further review; and
3. Whether to require a defendant to file a response to a no-merit report conflicts with a right to counsel on direct appeal.

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OCCD CA	10-13-2008	Letter/Correspondence
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OCCD CA	10-01-2008	Letter/Correspondence
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OCCD CA	08-25-2008	Letter/Correspondence
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OCCD SC	07-16-2008	Sua Sponte
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Filed By: Supreme Court Supreme Court

Submit Date: 7-16-2008

Decision: (O) Other

Decision Date: 8-15-2008

IT IS ORDERED that the Atty. Robert Henak shall serve as counsel for defendant- appellant-petitioner. Atty. Henak's representation shall be on a pro bono basis and not subject to compensation under SCR ch. 81. The court notes that Aaron Antonio Allen has given his consent to be represented by Atty. Henak; IT IS FURTHER ORDERED that the defendant-appellant-petitioner is directed to file a supplemental petition by 1/5/09, to address whether the following issues are presented in Allen's case, and, if so, to include discussion of State v. Fortier, 2006 WI App 11, 289 Wis. 2d 179, 709 N. W. 2d 893, State v. Tillman, 2005 WI App 71, 281 Wis. 2d 157, 696 N. W. 2d 574, and Page v. Frank, 343 F.3d 901 (7th Cir. 2003), with respect to the following issues: 1. Whether the no merit procedure requires a defendant to file a response to avoid waiver of subsequent claims of error; 2. Whether appointed counsel is required to advise the defendant that a response to a no merit report is necessary to preserve claims for further review; and Whether to require a defendant to file a response to a no merit report conflicts with a right to counsel on direct appeal.

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OCCD SC	07-14-2008	Response
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OCCD SC	07-02-2008	Motion for Miscellaneous Relief
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Filed By: Sarah Larson

Submit Date: 7-3-2008

Decision: (G) Grant

Decision Date: 7-3-2008

ORD that the motion is granted. Plaintiff-respondent's supplemental response to petition for review shall be served and filed on or before 7-16-08.

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OCCD SC	06-16-2008	Motion for Miscellaneous Relief
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Filed By: Sarah Larson

Submit Date: 6-17-2008

Decision: (G) Grant

Decision Date: 6-17-2008

ORD that the motion is granted. Plaintiff-respondent's supplemental response to petition for review shall be served and filed on or before 7-7-08.

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OCCD SC 06-11-2008

Court Order

ORD that the plaintiff-respondent, State of Wisconsin, is directed to file a supplemental response to the petition for review on or before 6-24-08, to include discussion of State v. Fortier, 2006 WI App 11, 289 Wis. 2d 179, 709 N.W.2d 893; State v. Tillman, 2005 WI App 71, 281 Wis. 2d 157, 696 N.W.2d 574; Page v. Frank, 343 F3d 901 (7th Cir. 2003), with respect to the following issues: 1. Whether the no-merit procedure requires a defendant to file a response to avoid waiver of subsequent claims of error; 2. Whether appointed counsel is required to advise that a response to a no-merit report is required if a defendant wants to preserve claims for further review; and 3. Whether to require a defendant to file a response to a no-merit report conflicts with a right to counsel on direct appeal.

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OCCD SC 05-28-2008

Letter/Correspondence

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OCCD CA 04-30-2008

Cites

311 Wis. 2d 489

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OCCD CA 04-30-2008

Cites

750 N.W.2d 518

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OCCD CA 04-30-2008

Opinion Ordered Unpublished

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OCCD SC 04-23-2008

Indigency Forms Sent

Filed By: Supreme Court Supreme Court

Submit Date: 5-7-2008

Decision: (G) Grant

Decision Date: 5-7-2008

ORD not a prisoner under 1997 Wis. Act 133 - elig for total fee waiver.

Motion Response

Filed By: Aaron Allen

Submit Date: 5-7-2008

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OCCD SC 04-23-2008

Petition for Review

Filed By: Aaron Allen

Submit Date: 5-7-2008

Decision: (G) Grant

Decision Date: 3-18-2009

ORD petition for review is granted. Briefs 30/20/10.

Motion Response

Filed By: Sarah Larson

Submit Date: 5-7-2008

Motion Response

Filed By: Robert Henak

Submit Date: 1-6-2009

Motion Response

Filed By: William Gansner

Submit Date: 1-23-2009

OCCD CA 03-25-2008

[Opinion/Decision](#)

Judge Panel: Curley, Fine, Wedemeyer

Opinion: Per Curiam

Decision: Affirmed Pages: 4

Order Text: Order affirmed

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OCCD CA 11-30-2007

Submitted on Briefs

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OCCD CA 10-23-2007

Briefs Received At State Law Library

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OCCD CA 10-04-2007

Record and Briefs Sent to District 1

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OCCD CA 10-04-2007

Certificate of Filing by Mail

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OCCD CA 10-02-2007

Certificate of Service

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OCCD CA 10-02-2007

Reply Brief  
[Reply Brief](#)

Filed By: Aaron Allen

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OCCD CA 09-25-2007

Motion to Extend Time

Filed By: Aaron Allen

Submit Date: 9-25-2007

Decision: (G) Grant

Decision Date: 9-28-2007

ORD the deadline for Allen to file a reply brief in this appeal is ext through 10-12-07.

See BRY event due on 10-12-2007

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OCCD CA 09-12-2007

Brief of Respondent(s)  
[Brief of Respondent](#)

Filed By: Sarah Larson

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OCCD CA 08-15-2007

Motion to Extend Time

Filed By: Sarah Larson

Submit Date: 8-16-2007

Decision: (G) Grant

Decision Date: 8-20-2007

ORD the deadline for the State to file its respondent's brief in this appeal is ext through 9-19-07.

See BRS event due on 9-19-2007

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OCCD CA 07-26-2007

Attorney Change

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OCCD CA 07-18-2007

Certificate of Service

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OCCD CA 07-18-2007

Certificate of Filing by Mail

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OCCD CA 07-14-2007

Brief &amp; Appx of Appellant(s)

[Brief of Appellant](#)

Filed By: Aaron Allen

OCCD CA 06-20-2007

Motion to Extend Time

Filed By: Aaron Allen

Submit Date: 6-20-2007

Decision: (G) Grant

Decision Date: 6-25-2007

ORD the time to file the appellant's brief is ext to 7-20-07.

See BAP event due on 7-20-2007

OCCD CA 05-04-2007

Record

OCCD CA 04-11-2007

Notif. Sent-Filing of NAP &amp; Ct. Record

OCCD CA 04-11-2007

RAP and Guide Sent

OCCD CA 04-11-2007

Indigency Forms Sent

Filed By: Unassigned District 1

Submit Date: 5-2-2007

Decision: (G) Grant

Decision Date: 5-2-2007

Fee waived.

Motion Response

Filed By: Aaron Allen

Submit Date: 5-2-2007

OCCD CA 04-06-2007

Notice of Appeal &amp; Circuit Court Docket Entries

OCCD CA 04-02-2007

Statement on Transcript

Filed By: Aaron

Status Allen: Prev. Filed

OCCD CA 03-30-2007

Notice of Appeal filed in Cir. Ct.

OCCD CA 03-21-2007

Order of Circuit Court