Wisconsin Supreme Court and Court of Appeals Case Access

State v. Rory A. McKellips

Appeal Number 2014AP000827 - CR

Supreme Court

CASE HISTORY

Status	Court	Filing Date	Anticipated Due Date	Activity
OCCD	SC	11-14-2016		Other Papers
	Comment: USSC Office of the Clerk: Petition for Writ of Certiorari is Denied.			
OCCD	SC	09-30-2016		Other Papers
	Comment: Petition for Writ of Certiorari filed with US Supreme Court on 9-23-2016			
OCCD	SC	08-02-2016		Remittitur
OCCD	SC	06-28-2016		Cites
	369 Wis. 2d 437			
OCCD	SC	06-28-2016		Cites
	881 N.W.2d 258			
OCCD	SC	06-28-2016		Opinion/Decision
	Judge Panel: Roggensack, Abrahamson, Bradley, Prosser, Ziegler, Gableman, Bradley Opinion: Opinion Decision: Reversed Pages: 36 Written by: Bradley, Rebecca G. Abrahamson, Shirley S. Wrote Dissenting Opinion 20 pages. Bradley, Ann Walsh Joined Dissenting Opinion Prosser, David T. Jr. Took No Part Order Text: The decision of the court of appeals is reversed.			
OCCD	SC	06-24-2016		Public Domain Citation
	Comment: PDC No: 2016 WI 51			
OCCD	SC	04-19-2016		Fee Paid
	Comment: Receipt No: 16R 000941			
OCCD	SC	04-07-2016		Oral Argument

Comment: at 1:30 p.m. Atty Katherine D. Lloyd for Pla-Res-Pet; Atty Scott Swid for Def-App

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OCCD SC 04-05-2016 Petition for Review

Filed By: Scott Swid
Submit Date: 4-5-2016
Decision: (D) Deny
Decision Date: 6-28-2016
ORD that the petition for review of the court of appeals decision is denied as is the relief of release on bail for which he moved this court, without costs.

SHIRLEY S. ABRAHAMSON, J. (dissenting). For the reasons set forth in my dissent to the opinion reversing the decision of the court of appeals, which is also being issued today under the same caption and case number, I dissent from the denial of the petition for review regarding release on bail. The petition raises a number of important legal issues about the bail procedure to be followed following the reversal of a conviction by the court of appeals. I believe that although these issues have now been rendered moot in this case, these issues are likely to recur and could evade review in future cases due to time factors. I would therefore have the court address them in this case.

I am authorized to state that Justice ANN WALSH BRADLEY joins this opinion.

DAVID T. PROSSER, J., did not participate.
Motion Response
Filed By: Katherine Lloyd
Submit Date: 4-19-2016

OCCD SC 03-22-2016 Briefs Received At State Law Library

OCCD SC 03-16-2016 Reply Brief-Supreme Court
Reply Brief-Supreme Court

Filed By: Katherine Lloyd

OCCD SC 03-14-2016 Briefs Received At State Law Library

OCCD CA 03-10-2016 Motion for Miscellaneous Relief

Filed By: Benjamin Krautkramer
Submit Date: 3-10-2016
Decision: (M) Dismiss
Decision Date: 3-15-2016
ORD that the motion is dismissed.
Comment: "Motion" re: release on bond

OCCD SC 03-10-2016 Motion to Extend Time

Filed By: Katherine Lloyd
Submit Date: 3-10-2016
Decision: (G) Grant
Decision Date: 3-11-2016
ORD that the motion is granted. Plaintiff-respondent-petitioner's reply brief shall abe served and filed on or before March 16, 2016. No further time extensions will be granted.
Prosser, J., did not participate.
See BR3 event due on 3-16-2016

OCCD SC 03-10-2016 Brief of Amicus Curiae
Brief of Amicus Curiae - Wisconsin Association of Criminal Defense Lawyers

Filed By: Robert Henak
Comment: Wisconsin Association of Criminal Defense Lawyers

OCCD SC 03-10-2016 Motion to File Amicus/Non-Party Brief

Filed By: Robert Henak
Submit Date: 3-10-2016
Decision: (G) Grant
Decision Date: 3-10-2016
ORD that the motion is granted and the brief is accepted for filing. Prosser, J., did not participate.
Comment: Wisconsin Association of Criminal Defense Lawyers

OCCD SC 03-03-2016 Briefs Received At State Law Library

OCCD SC 02-25-2016 Certificate of Filing by Mail

Comment: BR2-IB

OCCD SC 02-24-2016 Response Brief-Supreme Court
Response Brief-Supreme Court

Filed By: Benjamin Krautkramer

OCCD SC 02-16-2016 Briefs Received At State Law Library

OCCD SC 02-11-2016 Assigned-Oral Argument

OCCD SC 01-15-2016 Sua Sponte

Filed By: Supreme Court Supreme Court
Submit Date: 1-19-2016
Decision: (N) No Action
Decision Date: 2-9-2016
no action
Motion Response
Filed By: Scott Swid
Submit Date: 2-8-2016
Comment: Letter from Attys Swid and Krautkramer seeking direction/guidance on behalf of circuit court re: whether acceptance of State's petition for review acts as a stay of enforcement over COA reversal of conviction underlying the ongoing appeal; 2/8/16 rec'd letter from Attys Swid and Krautkramer re: hearing set for 2/10/16

OCCD SC 01-06-2016 First Brief-Supreme Court
First Brief-Supreme Court

Filed By: Katherine Lloyd

OCCD SC 12-30-2015 Attorney Change

Comment: Attys Scott A Swid & Benjamin J Krautkramer representing defendant. See 12/30/15 cto.

OCCD SC 12-30-2015 Other Papers

Comment: Rcd notice of appearance from Atty Swid and Atty Krautkramer

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OCCD SC 12-14-2015 Court Order

ORD that the motion is granted in part. Defendant-appellant must file in this court either a response brief or a statement that no brief will be filed within 50 days of the filing of the brief-in-chief of plaintiff-respondent-petitioner, State of Wisconsin; FRO that the motion for Attorneys Thomas E. Brown, Kathryn A. Keppel, and Emily I. Lonergan to withdraw as counsel is held in abeyance pending the filing of a notice of appearance by successor counsel. Prosser, J., did not participate.

OCCD SC 12-10-2015 Motion to Withdraw as Counsel

Filed By: Emily Lonergan
Submit Date: 12-11-2015
Decision: (G) Grant
Decision Date: 12-30-2015
ORD that the motion for Attorneys Thomas E. Brown, Kathryn A. Keppel, and Emily I Lonergan to withdraw as counsel is granted and Attorneys Scott A. Swid and Benjamin J. Krautkramer are substituted as counsel for defendant. Prosser, J., did not participate.
Comment: MWC & MXT/BR2; Amended cover letter filed same day via fax indicating replacement counsel is Scott Swid; motion held in abeyance per cto 12/14/15, pending notice of appearance filing by new counsel (Swid)

OCCD SC 11-24-2015 Motion to Extend Time

Filed By: Katherine Lloyd
Submit Date: 11-25-2015
Decision: (G) Grant
Decision Date: 11-25-2015
ORD that the motion is granted. Plaintiff-respondent-petitioner's brief-in-chief shall be served and filed on or before 1/6/16. Prosser, J., did not participate.
See BR1 event due on 1-6-2016

OCCD SC 11-23-2015 Response

Comment: 10 addl copies of CA briefs for SC

OCCD SC 11-16-2015 Caption Amended

OCCD SC 11-16-2015 Court Changed to Supreme Court

OCCD CA 05-11-2015 Final Publication

OCCD CA 04-29-2015 Cites

864 N.W.2d 106

OCCD CA 04-29-2015 Cites

361 Wis. 2d 773

OCCD CA 04-29-2015 Opinion Ordered Published

OCCD CA 04-29-2015 Public Domain Citation

Comment: PDC No: 2015 WI App 31

OCCD SC 04-16-2015 Fee Waived

Comment: PRE filed by State

OCCD SC 04-16-2015 Petition for Review

Filed By: Katherine Lloyd
Submit Date: 4-30-2015
Decision: (G) Grant
Decision Date: 11-16-2015
ORD that the petition for review is granted as to the following issues: 1. What is the proper interpretation of Wis. Stat. 948.075(1r), including the term computerized communication system? a. Does the use of a cellular telephone to send text messages, make telephone calls, or leave voicemail messages constitute the use of a computerized communication system? b. Must an individual use the data transmission capabilities of a cellular telephone or otherwise use the Internet to constitute the use of a computerized communication system? 2. Was the jury instruction regarding the charge of violating Wis. Stat. 948.075 an accurate statement of the law? Is asking whether the cellular phone constituted a computerized communication system equivalent to asking whether the cellular phone constituted a component of a computerized communication system? 3. Is Wis. Stat. 948.075(1r) unconstitutionally vague as applied and interpreted by the circuit court because persons of ordinary intelligence would not understand that use of a mobile phone that has no independent internet capabilities would constitute use of a computerized communication system in violation of law? 4. As a matter of law, can a new trial in the interest of justice be granted on the ground the real controversy was not fully tried based on a waived challenge to a jury instruction where the erroneous instruction was harmless error? If the jury instruction in this case was erroneous, was the error harmless? 5. Did the court of appeals erroneously exercise its discretion by granting a new trial in the interest of justice without analyzing whether this is an exceptional case that warrants the extraordinary remedy of discretionary reversal? FRO that pursuant to Wis. Stat. (Rule) 809.62(6), the plaintiff-respondent-petitioner may not raise or argue issues other than the issues set forth in the order; and FRO briefs due 30/20/10; and FRO 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 FRO 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 FRO that 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 FRO that the allowance of costs, if any, in connection with the granting of the petition will abide the decision of this court on review. Prosser, J., did not participate.

Motion Response
Filed By: Kathryn Keppel
Submit Date: 4-30-2015

OCCD CA 03-17-2015 Opinion/Decision

Judge Panel: Hoover, Stark, Hruz
Opinion: Opinion
Decision: Reversed and remanded Pages: 12
Written by: Hoover, Michael W.
Order Text: Judgment reversed and cause remanded

OCCD CA 02-04-2015 Oral Argument

Comment: in the Court of Appeals District III Courtroom, 2100 Stewart Avenue, Suite 310, Wausau @ 1pm

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OCCD CA 12-22-2014 Letter/Correspondence

Comment: From Judges Hoover, Stark and Hruz to parties re: oral argument restriction of appellant's arguments I.A. and I.B.

OCCD CA 12-12-2014 Assigned-Oral Argument

OCCD CA 11-06-2014 Briefs Received At State Law Library

OCCD CA 10-22-2014 Record and Briefs Sent to District 3

OCCD CA 10-22-2014 Reply Brief
Reply Brief

Filed By: Kathryn Keppel

Comment: Received 10 copies of BRY for SC use, PS 11-23-2015

OCCD CA 10-03-2014 Brief of Respondent(s)
Brief of Respondent

Filed By: Katherine Lloyd

Comment: Received 10 additional copies of CA BRS for SC use EW 11/17/15

OCCD CA 09-15-2014 Motion to Extend Time

Filed By: Katherine Lloyd
Submit Date: 9-15-2014
Decision: (G) Grant
Decision Date: 9-17-2014
ORD that time for filing the respondent's brief is extended to 10/3/14.
See BRS event due on 10-3-2014
Comment: 3rd request

OCCD CA 09-02-2014 Motion to Extend Time

Filed By: Katherine Lloyd
Submit Date: 9-2-2014
Decision: (G) Grant
Decision Date: 9-4-2014
ORD that time for filing the respondent's brief is extended to 9/18/14.
See BRS event due on 9-18-2014
Comment: 2nd request

OCCD CA 08-01-2014 Motion to Extend Time

Filed By: Katherine Lloyd
Submit Date: 8-1-2014
Decision: (G) Grant

Decision Date: 8-5-2014
ORD that the time for filing the respondent's brief is extended to September 3, 2014.
See BRS event due on 9-3-2014

OCCD CA 07-18-2014 Attorney Change

Comment: W/drew AAG Weber, added AAG Lloyd as counsel for State per letter.

OCCD CA 07-02-2014 Brief & Appx of Appellant(s)
Brief of Appellant

Filed By: Kathryn Keppel

Comment: Separate Appendix, received 10 copies of BAP for SC use, PS 11-23-2015

OCCD CA 05-20-2014 Record

Comment: 1-10 to 82-1, Separate Box

OCCD CA 05-12-2014 Other Papers

Comment: Rec'd copy of record inspection/compilation notice sent by COC to parties.

OCCD CA 04-15-2014 Notif. Sent-Filing of NAP & Ct. Record

OCCD CA 04-15-2014 Fee Paid

Comment: Receipt No: 14R 001024

OCCD CA 04-14-2014 Notice of Appeal & Circuit Court Docket Entries

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OCCD CA 04-09-2014 Statement on Transcript

Filed By: Kathryn Keppel
Status: Prev. Filed

OCCD CA 04-09-2014 Notice of Appeal filed in Cir. Ct.

OCCD CA 12-06-2013 Judgment of Circuit Court
