

# Wisconsin Supreme Court and Court of Appeals Case Access

## John McAdams v. Marquette University

Appeal Number 2017AP001240

Supreme Court

### CASE HISTORY

| Status | Court | Filing Date | Anticipated Due Date | Activity   |
|--------|-------|-------------|----------------------|--|
| OCCD   | SC    | 08-08-2018  |                      | Remittitur<br>Comment: NRI returned via UPS 8/9/18   |
| OCCD   | SC    | 07-06-2018  |                      | Cites<br>383 Wis. 2d 358   |
| OCCD   | SC    | 07-06-2018  |                      | Cites<br>914 N.W.2d 708  |
| OCCD   | SC    | 07-06-2018  |                      | <a href="#">Opinion/Decision</a><br>Judge Panel: Roggensack, Abrahamson, Bradley, Ziegler, Gableman, Bradley, Kelly<br>Opinion: Opinion<br>Decision: Reversed and remanded Pages: 63<br>Written by: Kelly, Daniel<br>Abrahamson, Shirley S. Joined Dissenting Opinion<br>Ziegler, Annette K. Took No Part<br>Bradley, Ann Walsh Wrote Dissenting Opinion 24 pages.<br>Bradley, Rebecca Grassl Wrote Concurring Opinion 22 pages.<br>Kelly, Daniel Wrote Concurring Opinion 3 pages.<br>Order Text: THE DECISION OF THE COURT OF APPEALS IS REVERSED AND REMANDED WITH INSTRUCTIONS.<br>Comment: Opinion/Decision |
| OCCD   | SC    | 07-03-2018  |                      | Public Domain Citation<br>Comment: PDC No: 2018 WI 88  |
| OCCD   | SC    | 04-19-2018  |                      | Oral Argument<br>Comment: at 1:30 p.m.; Attorney Richard Esenberg for Pla-App; Attorney Ralph Weber for Def-Res  |
| OCCD   | SC    | 03-29-2018  |                      | Briefs Received At State Law Library   |
| OCCD   | SC    | 03-23-2018  |                      | Brief of Amicus Curiae   |

[Brief of Amicus Curiae - Wisconsin Association of Independent Colleges & Universities \(WAICU\)](#)

Filed By: Andrew Hitt

Comment: Wisconsin Association of Independent Colleges & Universities (WAICU)

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OCCD SC 03-22-2018 Certificate of Filing by Mail

Comment: BAM 03/21/18; University Academic Senate of Marquette University

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OCCD SC 03-22-2018 Brief of Amicus Curiae

[Brief of Amicus Curiae - University Academic Senate of Marquette University](#)

Filed By: Amy MacArdy

Comment: University Academic Senate of Marquette University

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OCCD SC 03-22-2018 Brief of Amicus Curiae

[Brief of Amicus Curiae - National Association of Manufacturers](#)

Filed By: Bryan Cahill

Comment: National Association of Manufacturers

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OCCD SC 03-22-2018 Motion to File Amicus/Non-Party Brief

Filed By: Amy MacArdy

Submit Date: 3-22-2018

Decision: (G) Grant

Decision Date: 3-22-2018

ORD that the motions are granted and the briefs are accepted for filing.

Ziegler, J., did not participate.

Comment: University Academic Senate of Marquette University

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OCCD SC 03-21-2018 Motion to File Amicus/Non-Party Brief

Filed By: Bryan Cahill

Submit Date: 3-22-2018

Decision: (G) Grant

Decision Date: 3-22-2018

ORD that the motions are granted and the briefs are accepted for filing.

Ziegler, J., did not participate.

Comment: National Association of Manufacturers

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OCCD SC 03-20-2018 Motion to File Amicus/Non-Party Brief

Filed By: Andrew Hitt

Submit Date: 3-20-2018

Decision: (G) Grant

Decision Date: 3-23-2018

IT IS ORDERED that the motion is granted and the brief is accepted for filing.

Comment: Wisconsin Association of Independent Colleges & Universities (WAICU)

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OCCD SC 03-19-2018 Briefs Received At State Law Library

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OCCD SC 03-07-2018 Other Brief

[Other Brief - Corrected Brief of Amicus Curiae Association of Jesuit](#)

Filed By: Thomas Shriner

Comment: Corrected Brief of Amicus Curiae Association of Jesuit Colleges and Universities in Support of Marquette University

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OCCD SC 03-07-2018 Motion for Miscellaneous Relief

Filed By: Thomas Shriner

Submit Date: 3-7-2018

Decision: (G) Grant

Decision Date: 3-8-2018

ORD that the motion is granted and the corrected non-party brief is accepted for filing.

Ziegler, J., did not participate.

Comment: Substitute corrected amicus brief (Association of Jesuit Colleges and Universities)

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OCCD SC 03-07-2018 Brief of Amicus Curiae  
[Brief of Amicus Curiae- Thomas More Society](#)

Filed By: Andrew Bath

Comment: Thomas More Society

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OCCD SC 03-05-2018 Certificate of Filing by Mail  
Comment: BAM 03/02/18; Metropolitan Milwaukee Association of Commerce (MMAC)

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OCCD SC 03-05-2018 Brief of Amicus Curiae  
[Brief of Amicus Curiae - Metropolitan Milwaukee Association of Commerce](#)

Filed By: Michael Apfeld

Comment: Metropolitan Milwaukee Association of Commerce (MMAC)

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OCCD SC 02-28-2018 Brief of Amicus Curiae  
[Brief of Amicus Curiae- National Association of Scholars](#)

Filed By: James Troupis

Comment: National Association of Scholars; Please note the party designation on the caption was corrected on the covers of all briefs. Please use the above caption on all future briefs.

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OCCD SC 02-28-2018 Motion to Extend Time

Filed By: Michael Apfeld

Submit Date: 2-28-2018

Decision: (G) Grant

Decision Date: 2-28-2018

ORD that the motion for leave to file a non-party brief amicus curiae of the Thomas More Society is granted. Twenty-two copies of the brief shall be filed on or before March 9, 2018;

FRO that the motion for leave to file a non-party brief amicus curiae of the National Association of Scholars is granted and the brief is accepted for filing;

FRO that the motion for admission of Kenneth Chesebro pro hac vice is granted. A copy of SCR 10.03(4), setting forth the requirements for attorneys' appearing pro hac vice is attached to the moving party's order;

FRO that the motion for extension of time of Metropolitan Milwaukee Association of Commerce is granted. Metropolitan Milwaukee Association of Commerce's non-party brief shall be filed on or before March 2, 2018.

Ziegler, J., did not participate.

See BAM event due on 3-2-2018

Comment: Metropolitan Milwaukee Association of Commerce (MMAC)

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OCCD SC 02-28-2018 Brief of Amicus Curiae

Filed By: Aaron Wegrzyn

Comment: Association of Jesuit Colleges & Universities; Please note the party designation on the caption was corrected on the covers of all briefs. Please use the above caption on all future briefs.

CORRECTED VERSION OF BRIEF FILED 3/7/18

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OCCD SC 02-27-2018 Motion to File Amicus/Non-Party Brief

Filed By: James Troupis

Submit Date: 2-28-2018

Decision: (G) Grant

Decision Date: 2-28-2018

ORD that the motion for leave to file a non-party brief amicus curiae of the Thomas More Society is granted. Twenty-two copies of the brief shall be filed on or before March 9, 2018;

FRO that the motion for leave to file a non-party brief amicus curiae of the National Association of Scholars is granted and the brief is accepted for filing;

FRO that the motion for admission of Kenneth Chesebro pro hac vice is granted. A copy of SCR 10.03(4), setting forth the requirements for attorneys' appearing pro hac vice is attached to the moving party's order;

FRO that the motion for extension of time of Metropolitan Milwaukee Association of Commerce is granted. Metropolitan Milwaukee Association of Commerce's non-party brief shall be filed on or before March 2, 2018.

Ziegler, J., did not participate.

Comment: [National Association of Scholars, Edward J. Erler, Duek Pesta and Mark Zunac]

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OCCD SC 02-27-2018 Motion for Pro Hac Vice status

Filed By: James Troupis

Submit Date: 2-28-2018

Decision: (G) Grant

Decision Date: 2-28-2018

ORD that the motion for leave to file a non-party brief amicus curiae of the Thomas More Society is granted. Twenty-two copies of the brief shall be filed on or before March 9, 2018;

FRO that the motion for leave to file a non-party brief amicus curiae of the National Association of Scholars is granted and the brief is accepted for filing;

FRO that the motion for admission of Kenneth Chesebro pro hac vice is granted. A copy of SCR 10.03(4), setting forth the requirements for attorneys' appearing pro hac vice is attached to the moving party's order;

FRO that the motion for extension of time of Metropolitan Milwaukee Association of Commerce is granted. Metropolitan Milwaukee Association of Commerce's non-party brief shall be filed on or before March 2, 2018.

Ziegler, J., did not participate.

Comment: Kenneth Chesebro [National Association of Scholars, Edward J. Erler, Duek Pesta and Mark Zunac]

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OCCD SC 02-27-2018 Motion to File Amicus/Non-Party Brief

Filed By: Andrew Bath

Submit Date: 2-28-2018

Decision: (G) Grant

Decision Date: 2-28-2018

ORD that the motion for leave to file a non-party brief amicus curiae of the Thomas More Society is granted. Twenty-two copies of the brief shall be filed on or before March 9, 2018;

FRO that the motion for leave to file a non-party brief amicus curiae of the National Association of Scholars is granted and the brief is accepted for filing;  
FRO that the motion for admission of Kenneth Chesebro pro hac vice is granted. A copy of SCR 10.03(4), setting forth the requirements for attorneys' appearing pro hac vice is attached to the moving party's order;  
FRO that the motion for extension of time of Metropolitan Milwaukee Association of Commerce is granted. Metropolitan Milwaukee Association of Commerce's non-party brief shall be filed on or before March 2, 2018.  
Ziegler, J., did not participate.  
Comment: Thomas More Society

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OCCD SC 02-27-2018 E-Filing Certification  
Comment: BAM; American Association of University Professors

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OCCD SC 02-27-2018 Brief of Amicus Curiae  
[Brief of Amicus Curiae - American Association of University Professors](#)  
  
Filed By: Frederick Perillo  
Comment: American Association of University Professors; Please note the party designation on the caption was corrected on the covers of all briefs. Please use the above caption on all future briefs. Please note amended signature pages pursuant to Rule 802.05/809.19(1)(h) have been added to all briefs.

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OCCD SC 02-27-2018 Brief of Amicus Curiae  
[Brief of Amicus Curiae- The State of Wisconsin](#)  
  
Filed By: Ryan Walsh  
Comment: State of Wisconsin

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OCCD SC 02-22-2018 Brief of Amicus Curiae  
[Brief of Amicus Curiae - Law and University Professors and Academics](#)  
  
Filed By: Bernardo Cueto  
Comment: Law and University Professors and Academics; Note that the brief cover color has been corrected on this brief. Please see Rule 809.19(9) regarding requirements. When using staples please be sure to bind along the left side of the brief.

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OCCD SC 02-20-2018 Motion to File Amicus/Non-Party Brief  
  
Filed By: Bernardo Cueto  
Submit Date: 2-21-2018  
Decision: (G) Grant  
Decision Date: 2-21-2018  
ORD that the motion is granted. Twenty-two copies of the brief with the correct front and back cover shall be filed on or before February 27, 2018.  
Ziegler, J., did not participate.  
Comment: Law and University Professors and Academics

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OCCD SC 02-20-2018 Motion to File Amicus/Non-Party Brief  
  
Filed By: Michael Apfeld  
Submit Date: 2-20-2018  
Decision: (G) Grant  
Decision Date: 2-20-2018  
ORD that the motion is granted. Twnty=two copies of the brief shall be filed on or before February 27, 2018.

Ziegler, J., did not participate.  
Comment: Metropolitan Milwaukee Association of Commerce (MMAC)

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OCCD SC 02-16-2018 Motion to File Amicus/Non-Party Brief

Filed By: Michael Dean  
Submit Date: 2-16-2018  
Decision: (D) Deny  
Decision Date: 3-13-2018  
ORD that the motion is denied.  
Rebecca Grassl Bradley and Kelly, JJ., dissent  
Ziegler, J., did not participate  
Comment: Marquette Alumnus J.D.

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OCCD SC 02-14-2018 Motion to File Amicus/Non-Party Brief

Filed By: Frederick Perillo  
Submit Date: 2-14-2018  
Decision: (G) Grant  
Decision Date: 2-14-2018  
ORD that the motion is granted. Twenty-two copies of the brief shall be filed on or before February 27, 2018.  
Ziegler, J., did not participate  
Comment: American Association of University Professors

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OCCD SC 02-12-2018 Attorney Change

Comment: Atty. Cueto replaces Atty. Dean as affiliated WI counsel for Atty. Mersino, admitted pro hac vice, for proposed amici, University Professors and Academics

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OCCD SC 02-09-2018 Motion for Miscellaneous Relief

Filed By: Michael Dean  
Submit Date: 2-9-2018  
Decision: (G) Grant  
Decision Date: 2-12-2018  
ORD that the motion is granted.  
Ziegler, J., did not participate.  
Comment: Motion to substitute counsel for AMI University Professors and Academics

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OCCD SC 02-05-2018 Motion to File Amicus/Non-Party Brief

Filed By: Thomas Shriner  
Submit Date: 2-5-2018  
Decision: (G) Grant  
Decision Date: 2-7-2018  
ORD that the motion is granted. Twenty-two copies of the brief shall be filed on or before February 27, 2018.  
Ziegler, J., did not participate.  
Comment: Association of Jesuit Colleges and Universities

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OCCD SC 02-02-2018 Assigned-Oral Argument

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OCCD SC 01-31-2018 Fee Paid

Comment: Receipt No: 18R 000307; copy of appendix to applnt. brief emailed to Abby Willemssen,

OCCD SC 01-29-2018 Motion to File Amicus/Non-Party Brief  
Filed By: Ryan Walsh  
Submit Date: 1-29-2018  
Decision: (G) Grant  
Decision Date: 1-30-2018  
ORD that the motion is granted. Twenty-two copies of the brief shall be filed on or before February 27, 2018.  
Ziegler, J., did not participate.  
Comment: State of Wisconsin

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OCCD SC 01-19-2018 Court Changed to Supreme Court

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OCCD CA 01-19-2018 Hold Status

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OCCD CA 12-20-2017 Non-Electronic Record Item  
Comment: Exhibit #1: Thumb Drive

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OCCD CA 12-18-2017 Supplement to Record  
Comment: ELECTRONICALLY FILED: 142-1 to 144-1

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OCCD SC 12-07-2017 Motion for Miscellaneous Relief  
Filed By: Ralph Weber  
Submit Date: 12-7-2017  
Decision: (G) Grant  
Decision Date: 12-7-2017  
ORD that the motion is granted and the response is accepted for filing.  
Comment: Respondent Marquette University's motion to file response to non-party brief (FIRE)

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OCCD CA 12-05-2017 Motion to Correct/Supplement Record  
Filed By: Ralph Weber  
Submit Date: 12-5-2017  
Decision: (G) Grant  
Decision Date: 12-12-2017  
ORD that the clerk of the circuit court shall include the above listed item in the appellate record no later than 10 days from the date of this order.

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OCCD CA 12-04-2017 Response  
Comment: PER 11/30/17 CTO - 4 ADDTNL. COPIES AMICUS BRIEF IN SUPPORT OF BYP DUE

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OCCD SC 11-29-2017 Motion to File Amicus/Non-Party Brief  
Filed By: Daniel Adams  
Submit Date: 11-30-2017  
Decision: (G) Grant  
Decision Date: 11-30-2017  
ORD the motion is granted and the brief is accepted for filing. However, pursuant to Wis. Stat. rule 809.82(1), the foundation shall file 4 additional copies of its non-party brief with the clerk if this court on

or before December 8, 2017.

Comment: Foundation for Individual Rights in Education (FIRE) Brief in support of Pla-App-Pet John McAdams; 12/4/17 rcv'd. 4 addtnl. copies brief in support of petitioner and additional copies of motion via first class mail.

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OCCD CA 11-06-2017 Reply Brief  
[Reply Brief](#)

Filed By: Richard Esenberg

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OCCD CA 11-03-2017 Motion to File Amicus/Non-Party Brief

Filed By: Michael Dean

Submit Date: 11-6-2017

Decision: (D) Deny

Decision Date: 11-10-2017

ORD that the motion to file an amicus curiae brief is denied.

Comment: Law and University Professors and Academics

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OCCD SC 11-03-2017 Fee Paid

Comment: Receipt No: 17R 002683

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OCCD SC 11-03-2017 Petition to Bypass

Filed By: Richard Esenberg

Submit Date: 11-17-2017

Decision: (G) Grant

Decision Date: 1-19-2018

ORD the petition to bypass is granted and the appeal is accepted for consideration in this court; and FRO that the briefs previously submitted by the parties to the court of appeals may stand as the parties' briefs in this court. The parties shall submit 17 additional copies of their briefs within 10 days of the date of this order. The parties will be notified of the date and time for oral argument in this appeal in due course.

ANNETTE KINGSLAND ZIEGLER, J., did not participate.

SHIRLEY S. ABRAHAMSON and ANN WALSH BRADLEY, J.J. (dissenting).

Motion Response

Filed By: Ralph Weber

Submit Date: 11-17-2017

Motion Response

Filed By: Daniel Adams

Submit Date: 12-4-2017

Motion Response

Filed By: Ralph Weber

Submit Date: 12-7-2017

Comment: DOES NOT STAY BRIEFING

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OCCD CA 11-01-2017 Motion for Pro Hac Vice status

Filed By: Michael Dean

Submit Date: 11-1-2017

Decision: (G) Grant

Decision Date: 11-2-2017

ORD that Attorney Erin Elizabeth Andrews is granted pro hac vice status to represent the Great Lakes Justice Center as may be appropriate in this appeal. Counsel should be aware that Dean, as sponsoring



Wisconsin counsel, must appear in the action on appeal and must sign every paper that Andrews files in this court.

Comment: of Atty. Erin Elizabeth Mersino for Amicus Great Lakes Justice Center supporting Appellant

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OCCD CA 10-20-2017 Brief of Respondent(s)  
[Brief of Respondent](#)

Filed By: Ralph Weber  
 Comment: Separate Appendix

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OCCD CA 09-11-2017 Brief & Appx of Appellant(s)  
[Brief of Appellant](#)

Filed By: Richard Esenberg

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OCCD CA 08-30-2017 Motion to Extend Time

Filed By: Thomas Kamenick

Submit Date: 8-31-2017

Decision: (G) Grant

Decision Date: 9-1-2017

IT IS ORDERED that the deadline for the appellant to file an opening brief is extended through September 11, 2017. See Wis. Stat. Rule 809.82(2)(a) (2015-16). IT IS FURTHER ORDERED that the deadline for the respondent to file a brief is extended through October 20, 2017. See id. See BAP event due on 9-11-2017

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OCCD CA 07-25-2017 Record

Comment: ELECTRONICALLY FILED: 1-28 to 141-72

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OCCD CA 07-03-2017 Statement on Transcript

Filed By: Thomas Kamenick

Status: Prev. Filed

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OCCD CA 06-28-2017 Notif. Sent-Filing of NAP & Ct. Record

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OCCD CA 06-28-2017 Fee Paid

Comment: Receipt No: 17R 001519

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OCCD CA 06-28-2017 Notice of Appeal & Circuit Court Docket Entries

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OCCD CA 06-23-2017 Notice of Appeal filed in Cir. Ct.

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OCCD CA 06-21-2017 Docketing Statement from Appellant

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OCCD CA 06-09-2017 Order of Circuit Court

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