

# 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		<a href="#">Opinion/Decision</a> 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

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

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

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OCCD SC 03-16-2016 Reply Brief-Supreme Court  
[Reply Brief-Supreme Court](#)

Filed By: Katherine Lloyd

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

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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

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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 be 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

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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

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OCCD SC 03-03-2016

Briefs Received At State Law Library

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OCCD SC 02-25-2016

Certificate of Filing by Mail

Comment: BR2-IB

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OCCD SC 02-24-2016

Response Brief-Supreme Court

[Response Brief-Supreme Court](#)

Filed By: Benjamin Krautkramer

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OCCD SC 02-16-2016

Briefs Received At State Law Library

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OCCD SC 02-11-2016

Assigned-Oral Argument

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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

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OCCD SC 01-06-2016

First Brief-Supreme Court

[First Brief-Supreme Court](#)

Filed By: Katherine Lloyd

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OCCD SC 12-30-2015

Attorney Change

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

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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.

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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)

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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

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OCCD SC 11-23-2015 Response  
Comment: 10 addl copies of CA briefs for SC

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OCCD SC 11-16-2015 Caption Amended

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

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OCCD CA 05-11-2015 Final Publication

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OCCD CA 04-29-2015 Cites  
864 N.W.2d 106

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OCCD CA 04-29-2015 Cites  
361 Wis. 2d 773

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OCCD CA 04-29-2015 Opinion Ordered Published

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OCCD CA 04-29-2015

Public Domain Citation

Comment: PDC No: 2015 WI App 31

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OCCD SC 04-16-2015

Fee Waived

Comment: PRE filed by State

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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

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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

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OCCD CA	02-04-2015	Oral Argument
Comment: in the Court of Appeals District III Courtroom, 2100 Stewart Avenue, Suite 310, Wausau @ 1pm		
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 <a href="#">Reply Brief</a>
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) <a href="#">Brief of Respondent</a>
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

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OCCD	CA	07-18-2014	Attorney Change
Comment: W/drew AAG Weber, added AAG Lloyd as counsel for State per letter.			

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OCCD	CA	07-02-2014	Brief & Appx of Appellant(s)
			<a href="#">Brief of Appellant</a>
Filed By: Kathryn Keppel			
Comment: Separate Appendix, received 10 copies of BAP for SC use, PS 11-23-2015			

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OCCD	CA	05-20-2014	Record
Comment: 1-10 to 82-1, Separate Box			

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OCCD	CA	05-12-2014	Other Papers
Comment: Rec'd copy of record inspection/compilation notice sent by COC to parties.			

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OCCD	CA	04-15-2014	Notif. Sent-Filing of NAP & Ct. Record
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OCCD	CA	04-15-2014	Fee Paid
Comment: Receipt No: 14R 001024			

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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

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OCCD	CA	04-09-2014	Notice of Appeal filed in Cir. Ct.
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OCCD	CA	12-06-2013	Judgment of Circuit Court
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