Wisconsin Supreme Court and Court of Appeals Case Access

State v. Steven A. Avery

Appeal Number 2017AP002288

Court of Appeals District 2

CASE HISTORY

Status OCCD	CA	Filing DateAnticipated Due Date01-27-2022W.2d 564	Activity Published Opinion Citation
OCCD		01-27-2022 s. 2d 541	Published Opinion Citation
OCCD		01-27-2022 ent: Opinion Ordered Unpublished - Order	Opinion Ordered Unpublished
OCCD	CA	11-18-2021	Remittitur
OCCD		08-26-2021 ent: Certificate of Service re the Petition fo	Certificate of Service r Review
OCCD		08-26-2021 ent: Receipt No: 21R 001962	Fee Paid
OCCD	SC	08-26-2021	Petition for Review Response to Petition for Review Petition for Review
	Submit Decisio ORD th Motion Filed B Submit Commo	y: Kathleen Zellner Date: 9-8-2021 on Date: 11-17-2021 nat the petition for review is denied, withou Response y: Lisa Kumfer Date: 9-8-2021 ent: The official filing date for the PRE is A d/accepted in this office.	

OCCD CA 07-28-2021

Opinion/Decision

Judge Panel: Davis, Neubauer, Reilly

Opinion: Per Curiam		
Decision: Affirmed Pages: 48		
Order Text: Orders affirmed		
Comment: 07/28/2021 - Opinion/Decision		

OCCD		05-20-2021 nent: Receipt No: 21R 001133	Fee Paid
OCCD		05-20-2021 nent: Invoice No: 19814	Invoice Issued
OCCD		05-03-2021 nent: Invoice No: 19817; Receipt No: 21R	Fee Paid 000972
OCCD		05-03-2021 nent: Invoice No: 19817	Invoice Issued
OCCD		04-30-2021 nent: Receipt No: 21R 000965	Fee Paid
OCCD		04-30-2021 nent: Receipt No: 21R 000964	Fee Paid
OCCD		04-30-2021 nent: Invoice No: 19818	Invoice Issued
OCCD		04-30-2021 nent: Invoice No: 19815	Invoice Issued
OCCD		04-29-2021 nent: Receipt No: 21R 000948	Fee Paid
OCCD		04-29-2021 nent: Invoice No: 19808	Invoice Issued
OCCD	Filed E Submi Decisi Decisi No Ac		Motion for Miscellaneous Relief to motion to strike; 4/29/21 - duplicate filed by mail
	<u> </u>	04-27-2021	Motion to Strike

OCCD CA 04-27-2021

Filed By: Lisa Kumfer Submit Date: 4-27-2021 Decision: (N) No Action Decision Date: 7-28-2021 No Action Comment: Motion to Strike Improper Reply

OCCD		04-23-2021 ent: Receipt No: 21R 000897	Fee Paid
OCCD		04-23-2021 ent: Invoice No: 19798	Invoice Issued
OCCD		04-20-2021 ent: Receipt No: 21R 000867	Fee Paid
OCCD		04-20-2021 ent: Invoice No: 19793	Invoice Issued
OCCD	-	04-16-2021 ent: Response to motion for remand maile	Certificate of Service ed via USPS 4/16/21
OCCD		04-13-2021 ent: Receipt No: 21R 000814	Fee Paid
OCCD		04-13-2021 ent: Invoice No: 19785; Attorney Zellner's	Invoice Issued request for copy of stamped 4/12/21 motion
OCCD	 D CA 04-12-2021 Motion for Remand Filed By: Kathleen Zellner Submit Date: 4-16-2021 Decision: (D) Deny Decision Date: 7-28-2021 Per paragraph 78: Accordingly, this decision operates as an order denying Averys April 12, 2021 mot to stay and remand. Motion Response Filed By: Lisa Kumfer Submit Date: 4-16-2021 Motion Response Filed By: Kathleen Zellner Submit Date: 4-22-2021 Comment: Motion for Remand and Stay of Appeal; 4/13/21 - Duplicate Copy of Motion Filed by mail; 4/16/21 - Response filed Reply to Response to Motion for Remand; 4/23/21 - duplicate copy of reply filed by mail 		

OCCD CA 11-09-2020

OCCD	Filed I Subm Decisi Decisi ORD 1 Comm	08-17-2020 By: Unassigned District 2 it Date: 8-17-2020 on: (N) No Action on Date: 8-19-2020 that no action is taken on Middlings filing. ment: Sua Sponte - 8/14/20 Filing from Pa Paula Middling Supporting Information fro	Sua Sponte ula Middling; 8/19/20 Court Order re Sua Sponte Letter m Paula Middling		
OCCD	CA	07-10-2020	Briefs Received At State Law Library		
OCCD	CA	06-29-2020	Record and Briefs Sent to District 2		
OCCD		06-26-2020 nent: RE: Reply Brief, Shipped 6-25-2020	Certificate of Filing by Mail , COS Certificate of Filing by Mail		
OCCD	CA	06-26-2020	Reply Brief Reply Brief		
	Filed By: Kathleen Zellner				
	Comm	nent: Filing Notice: Reply Brief			
OCCD	CA	06-01-2020	Motion to Extend Time		
	Subm Decisi ORD t FRO t 809.82 See B	By: Kathleen Zellner it Date: 6-1-2020 on: (G) Grant on Date: 6-4-2020 that the motion to enlarge the appellant's hat the time to file the appellant's reply bi 2(2)(a). RY event due on 6-25-2020 ment: Motion to Extend Time	reply brief to 9,000 words is granted. ief is extended to June 25, 2020. See WIS. STAT. RULE		
OCCD	Filed I Subm Decisi Decisi ORD 1 FRO t 809.82	2(2)(a). hent: Motion to Waive Filing Requirement	Motion to Waive Filing Requirements reply brief to 9,000 words is granted. rief is extended to June 25, 2020. See WIS. STAT. RULE s - Request to Enlarge Word Limit for BRY Court Order		

OCCD CA 05-27-2020

Brief of Respondent(s) Brief of Respondent

Filed By: Lisa Kumfer

Comment: Filing Notice: Brief of Respondent

Comment: Re motion to expand word limit; motion mailed 5/13/20

OCCD CA Motion to Waive Filing Requirements 05-18-2020 Filed By: Lisa Kumfer Submit Date: 5-18-2020 Decision: (G) Grant Decision Date: 5-19-2020 ORD that the motion to enlarge the respondents brief to 35,000 words is granted. Comment: Motion to Expand Word Limit; motion mailed 5/13/20 per COM Court Order 05/19/20 OCCD CA 03-03-2020 Attorney Change Comment: AAG Winter withdrawn per letter advising she should no longer be listed as co-counsel. Attorney Change OCCD CA 02-03-2020 Motion to Extend Time Filed By: Lisa Kumfer Submit Date: 2-3-2020 Decision: (G) Grant Decision Date: 2-5-2020 ORD that the time for the respondent to file its respondent's brief is extended to March 27, 2020. See Wis. Stat. Rule 809.82(2)(a) (2017-18). See BRS event due on 3-27-2020 Comment: Court Order 02/05/20 Motion to Extend Time OCCD CA 11-12-2019 Motion to Extend Time Filed By: Lisa Kumfer Submit Date: 11-12-2019 Decision: (G) Grant Decision Date: 11-14-2019 ORD that the time for the respondent to file its brief is extended to February 11, 2020. See Wis. Stat. Rule 809.82(2)(a). See BRS event due on 2-11-2020 Comment: Court Order 11/14/19 Motion to Extend Time OCCD CA Certificate of Filing by Mail 10-18-2019 Comment: RE: Corrected Appellant's Brief, Shipped 10-16-19, COS Certificate of Filing by Mail OCCD CA 10-17-2019 Motion for Miscellaneous Relief Filed By: Kathleen Zellner Submit Date: 10-17-2019 Decision: (G) Grant Decision Date: 10-21-2019 ORD that the appellant's corrected brief and appendix are accepted for filing. Comment: Motion for leave to file corrected appellant's brief and appendix Court Order 10/21/19 Motion for Miscellaneous Relief

OCCD CA 10-14-2019

Certificate of Filing by Mail

Comment: RE: Appellant's Brief, Shipped 10-11-19, COS Certificate of Filing by Mail

OCCD	CA	10-14-2019	Brief & Appendix of Appellant(s) Corrected Brief of Appellant			
	Filed B	Filed By: Kathleen Zellner				
	Rules	802.05 & 809.19(1)(h) have been added to	Please note amended signature pages pursuant to o all briefs. 10-18-19 - corrected brief filed, accepted per ellant Brief & Appx of Appellant(s): Extra pages			
OCCD	CA	09-17-2019	Motion to Waive Filing Requirements			
	Subm Decisi Decisi ORD t FRO t		rief to 41,000 words is denied. 00 words shall be filed on or before October 14, 2019. der 09/18/19 Motion to Waive Filing Requirements			
OCCD	СА	09-04-2019	Non-Electronic Record Item			
	Comm	nent: Two Separate Boxes of Non-Elctronic	c Exhibits - See Clerk's Certificate Cover Letter			
OCCD		08-28-2019 nent: #63-73, #187, #272, #308, #380, #38	Sealed Documents 3, #399, #674			
OCCD		08-28-2019 nent: 1-1 to 807-2, ELECTRONICALLY FIL	Record ED Filing Notice: Record			
OCCD	CA	08-28-2019	Hold Status			
OCCD	СА	03-05-2019	Fee Paid			
	Comm	nent: Invoice No: 18982; Receipt No: 19R (000602			
OCCD		03-05-2019 nent: Invoice No: 18979; Receipt No: 19R (Fee Paid 000601			
OCCD		03-05-2019 nent: Invoice No: 18982	Invoice Issued			
OCCD		03-05-2019 nent: Invoice No: 18979	Invoice Issued			
OCCD		02-27-2019 nent: Invoice No: 18983; Receipt No: 19R (Fee Paid 000544			
OCCD	CA	02-27-2019	Invoice Issued			

OCCD		2-26-2019 :: Invoice No: 18978; Receipt No: 19R 0	Fee Paid 00532
OCCD		2-26-2019 :: Invoice No: 18977; Receipt No: 19R 0	Fee Paid 00531
OCCD		2-26-2019 :: Invoice No: 18978	Invoice Issued
OCCD		2-26-2019 :: Invoice No: 18977	Invoice Issued
OCCD		2-25-2019 :: For supplemental postconviction motio	Record Remanded to Circuit Court on proceedings pursuant to 2/25/19 CTO.
OCCD		2-22-2019 :: Invoice No: 18947; Receipt No: 19R 0	Fee Paid 00508
OCCD		2-22-2019 :: Invoice No: 18947	Invoice Issued
OCCD		2-14-2019 :: Invoice No: 18967; Receipt No: 19R 0	Fee Paid 00424
OCCD		2-14-2019 :: Invoice No: 18967	Invoice Issued
OCCD		2-12-2019 :: Invoice No: 18964; Receipt No: 19R 0	Fee Paid 00394
OCCD		2-12-2019 :: Invoice No: 18964	Invoice Issued
OCCD		2-08-2019 :: Receipt No: 19R 000365	Fee Paid
OCCD		2-04-2019 :: Invoice No: 18951; Receipt No: 19R 0	Fee Paid 00303
OCCD	CA 02	2-04-2019	Invoice Issued

OCCD		02-01-2019 ent: Invoice No: 18950; Receipt No: 19R 0	Fee Paid 000295
OCCD	-	02-01-2019 ent: Invoice No: 18948; Receipt No: 19R 0	Fee Paid 000294
OCCD		02-01-2019 ent: Invoice No: 18906; Receipt No: 19R 0	Fee Paid 000293
OCCD		02-01-2019 ent: Invoice No: 18946; Receipt No: 19R 0	Fee Paid 000292
OCCD		02-01-2019 ent: Invoice No: 18950	Invoice Issued
OCCD		02-01-2019 ent: Invoice No: 18948	Invoice Issued
OCCD		02-01-2019 ent: Invoice No: 18946	Invoice Issued
OCCD		02-01-2019 ent: Invoice No: 18906	Invoice Issued
OCCD		01-31-2019 ent: Invoice No: 18949 VOIDED on 1-31-2	Invoice Issued 2019 - Wrong charge
OCCD	 CA 01-24-2019 Motion to Stay Filed By: Kathleen Zellner Submit Date: 1-24-2019 Decision: (O) Other Decision Date: 2-25-2019 ORD that this appeal is remanded forthwith to the circuit court to permit Steven A. Avery to pursue a supplemental postconviction motion raising "claims for relief in connection with the State's violation of WIS. STAT. 968.205 and Youngblood v. Arizona." FRO that any supplemental postconviction motion, and shall enter an order containing its findings and conclusions. FRO that if a party intends to order a transcript of any post-remand hearing, the party shall do so within ten days after the circuit court enters its order deciding the supplemental postconviction motion. The ordering party shall file a statement on transcript. Any such transcript shall be filed and served within thirty days after its request. The ordering party shall provide the court reporter with a copy of this order FRO that the circuit court clerk shall re-transmit the record to this court within twenty days after the late of the entry of the circuit court order deciding the supplemental postconviction motion or the filing of an 		

	post-remand hearing transcript, if ordered. The record shall include any papers filed pursuant to this remand. FRO that the appeal is stayed until the return of the record following remand. FRO that the appellant shall file an appellants opening brief presenting all grounds for relief within forty days after the return of the record. Motion Response Filed By: Tiffany Winter Submit Date: 1-29-2019 Motion Response Filed By: Kathleen Zellner Submit Date: 2-1-2019 Motion Response Filed By: Kathleen Zellner Submit Date: 2-11-2019 Motion Response Filed By: Kathleen Zellner Submit Date: 2-11-2019 Motion Response Filed By: Kathleen Zellner Submit Date: 2-11-2019 Motion Response Filed By: Kathleen Zellner Submit Da		
OCCD	CA 01-11-2019 Comment: Receipt No: 19R 000123	Fee Paid	
OCCD	CA 01-08-2019 Comment: Invoice No: 18907; Receipt No: 19R	Fee Paid 000077	
OCCD	CA 01-08-2019 Comment: Invoice No: 18907 Response from Z	Invoice Issued ellner	
OCCD	CA 01-03-2019 Comment: Invoice No: 18727; Receipt No: 19R	Fee Paid 000024	
OCCD	CA 01-03-2019 Comment: Invoice No: 18711; Receipt No: 19R	Fee Paid 000023	
OCCD	CA 01-03-2019 Comment: Invoice No: 18727	Invoice Issued	
OCCD	CA 01-03-2019 Comment: Invoice No: 18711	Invoice Issued	
OCCD	CA 01-02-2019 Comment: Invoice No: 18905; Receipt No: 19R	Fee Paid 000001	
OCCD	CA 01-02-2019 Comment: Invoice No: 18905	Invoice Issued	

Filed By: Kathleen Zellner Submit Date: 12-17-2018 Decision: (O) Other Decision Date: 12-28-2018 ORD that the motion to stay this appeal and remand to the circuit court is denied. FRO that the appellants brief shall be filed on or before February 1, 2019. Motion Response Filed By: Tiffany Winter Submit Date: 12-28-2018 Comment: of appeal and remand the cause for new scientific testing. Court Order 12/28/18 Response Motion for Stay Motion for Stay: Exhibits

OCCD CA 12-07-2018

12-17-2018

OCCD CA

Motion to Waive Filing Requirements

Filed By: Kathleen Zellner Submit Date: 12-7-2018 Decision: (G) Grant Decision Date: 12-10-2018 ORD that the motion to enlarge the word limit is granted. The appellant shall submit an appellant's brief that may not exceed 35,000 words if a proportional serif font is used. Comment: To enlarge word limit for BAP to 35,000 words Court Order 12/10/18 Motion to Waive Filing Requirements

OCCD CA 10-03-2018

Motion to Extend Time

Filed By: Kathleen Zellner Submit Date: 10-3-2018 Decision: (G) Grant Decision Date: 10-8-2018 ORD that the time for the appellant to file an appellant's brief is extended to December 20, 2018. SEE WIS. STAT. RULE 809.82(2)(a). See BAP event due on 12-20-2018 Comment: Court Order 10/08/18 Motion to Extend Time

OCCD CA 09-26-2018 Non-Electronic Record Item

Comment: 2 Separate Boxes of Exhibits - Includes two audio recordings of 10-24-17 call

OCCD CA 09-25-2018 Record Comment: 1-1 to 763-2, ELECTRONICALLY FILED. 2 Separate Boxes of Exhibits - Includes two audio recordings of 10-24-17 call. (See Clerk's Certificate for full list). Filing Notice: Record

OCCD CA 09-25-2018

Hold Status

OCCD CA 09-17-2018

Statement on Transcript

Filed By: Kathleen Zellner Status: Prev. Filed

Comment: Additional; 9/18/18 - mailed copy of SRT received Statement on Transcript (cleaner copy) Statement on Transcript (faxed)

Fee Paid

OCCD CA 07-09-2018

Comment: Invoice No: 18726; Receipt No: 18R 001722

OCCD	CA 07-09-2018 Comment: Invoice No: 18726	Invoice Issued
OCCD	CA 06-29-2018 Comment: Invoice No: 18729; Receipt No: 18R	Fee Paid 001671
OCCD	CA 06-29-2018 Comment: Invoice No: 18729	Invoice Issued
OCCD	CA 06-07-2018 Comment: For further circuit court proceedings	Record Remanded to Circuit Court pursuant to 6/7/18 CTO; NRI sent by UPS
OCCD	CA 06-01-2018 Comment: Receipt No: 18R 001350	Fee Paid
OCCD	CA 06-01-2018 Comment: Invoice No: 18713; Receipt No: 18R	Fee Paid 001343
OCCD	CA 06-01-2018 Comment: Invoice No: 18713	Invoice Issued
OCCD	CA 05-29-2018 Comment: Receipt No: 18R 001301	Fee Paid
OCCD	Filed By: Unassigned District 2 Submit Date: 5-23-2018 Decision: (O) Other Decision Date: 5-23-2018 ORD that the Exhibit 4 disk and evidentiary envite the record shall be placed under seal.	
OCCD		Attorney Change a E.F. Kumfer for State per letter of appearance. AAG
OCCD	CA 05-21-2018 Comment: Receipt No: 18R 001254	Fee Paid
OCCD	CA 05-15-2018 Filed By: Kathleen Zellner	Motion to Correct/Supplement Record

Submit Date: 5-29-2018 Decision: (O) Other Decision Date: 6-7-2018

ORD that the motion to supplement the record is denied.

FRO that this appeal is remanded forthwith to the circuit court to permit Steven A. Avery to pursue a supplemental postconviction motion in connection with Avery's receipt of previously withheld discovery or other new information.

FRO that any supplemental postconviction motion shall be filed in the circuit court within thirty days. FRO that the circuit court shall conduct any necessary proceedings and enter an order containing its findings and conclusions within sixty days after the supplemental postconviction motion is filed. FRO that if Avery intends to order a transcript of any post-remand hearing, he shall do so within ten days after the circuit court enters its order deciding the supplemental postconviction motion. Any such transcript shall be filed an served within twenty days after its request. Avery shall provide the court reporter with a copy of this order.

FRO that Avery shall file a statement on transcript within fifteen days after the circuit court enters its post-remand order deciding the supplemental postconviction motion. The statement on transcript shall reflect either that a post-remand transcript has been ordered or that such a transcript is not necessary for this appeal.

FRO that the circuit court clerk shall re-transmit the record to this court within twenty days after the later of the entry of the circuit court order resolving the supplemental postconviction motion or the filing of any post-remand hearing transcript, if ordered. The record shall include any papers filed pursuant to this remand.

FRO that the appellant shall file an appellant's opening brief presenting all grounds for relief within forty days after the filing of the record.

Motion Response

Filed By: Tiffany Winter

Submit Date: 5-29-2018

Motion Response

Filed By: 90183 (Zellner, K

Comment: with CD disclosed to defendant for the first time on 4/17/18; State's response filed 5/25/18; Reply filed 5/29/18 Court Order 06/07/18 Response Response Motion to Correct/Supplement Record Exhibits: Motion to Correct/Supplement Record

OCCD CA 05-11-2018

Motion to Waive Filing Requirements

Filed By: Kathleen Zellner Submit Date: 5-11-2018 Decision: (G) Grant Decision Date: 5-14-2018 ORD that the motion to enlarge the word limit is granted. The appellant shall submit an appellant's brief that may not exceed 31,000 words if a proportional serif font is used. Comment: To enlarge word count for BAP to 31,000 words Court Order 05/14/18 Motion to Waive Filing Requirements

OCCD CA 03-16-2018

Motion to Extend Time

Filed By: Kathleen Zellner Submit Date: 3-16-2018 Decision: (G) Grant Decision Date: 3-19-2018 ORD that the time for the appellant to file an appellant's brief is extended to May 21, 2018. See Wis. Stat. Rule 809.82(2)(a). See BAP event due on 5-21-2018 Comment: Court Order 03/19/18 Motion to Extend Time

OCCD CA 01-18-2018

	Submit Da Decision: Decision ORD that Stat. Rule See BAP	Kathleen Zellner ate: 1-18-2018 (G) Grant Date: 1-19-2018 the time for the appellant to file his app 809.82(2)(a). event due on 3-30-2018 : Court Order 01/19/18 Motion to Extend	ellant's brief is extended to March 30, 2018. See Wis. d Time
OCCD		2-19-2017 : Sealed Document #s 63-73, 272, 308,	Sealed Documents 380, 383, 399, 674
OCCD		2-19-2017 : Two (2) Separate Boxes of Exhibits	Non-Electronic Record Item
OCCD		2-19-2017 : ELECTRONICALLY FILED: 1-1 to 721	Record 1-258 Filing Notice: Record
OCCD	Filed By: Status: Pr	: original received via US mail 12/7/17.	Statement on Transcript Statement on Transcript (clearer) Statement on
OCCD	Comment	2-04-2017 : AAG Jeffrey J. Kassel for State per let . Fallon removed. Attorney Change	Attorney Change ter of appearance. Criminal Appeals Unit and AAG
OCCD		2-04-2017 : Additional Notif. Sent - Filing of NOP &	Notif. Sent - Filing of NOP & Ct. Rec. & Ct. Rec.
OCCD		2-04-2017 : Receipt No: 17R 002933	Fee Paid
OCCD	Comment	2-04-2017 : Additional Transmittal: Notice of Addtl ended (Other) Appeal	Notice of Additional/Amended/Other Appeal /Amended (Other) Appeal Court Record: Notice of
OCCD		1-30-2017 : Additional Other Appeal Filed In Circu	Other Appeal Filed In Circuit Court it Court
OCCD	CA 1	1-28-2017	Order of Circuit Court
OCCD		1-22-2017 : Notif. Sent-Filing of NAP & Ct. Record	Notif. Sent-Filing of NAP & Ct. Record

OCCD	•	11-22-2017 ent: Receipt No: 17R 002848	Fee Paid
	•		Notice of Appeal & Circuit Court Docket Entries Record Court Record: Notice of Appeal & Court
OCCD	•	11-17-2017 ent: Notice of Appeal filed in circuit court	Notice of Appeal filed in Circuit Court
OCCD	CA	10-03-2017	Order of Circuit Court