

Wisconsin Supreme Court and Court of Appeals Case Access

State v. Garland Dean Barnes

Appeal Number 2018AP002005 - CR

Supreme Court

CASE HISTORY

Status	Court	Filing Date	Anticipated Due Date	Activity
PEND	SC			Awaiting Opinion/Decision
OCCD	SC	10-03-2022		Oral Argument Comment: 1st case, 9:45 a.m. (State Capitol SC Hearing Room). Attorney Cole Ruby for Defedndant-Appellant-Petitioner Attorney John W. Kellis for Plaintiff-Respondent
OCCD	SC	09-09-2022		Reply Brief-Supreme Court Reply Brief Filed By: Cole Ruby Comment: Please note that corrected form and length and electronic certifications have been inserted in each brief copy due to signature issues.
OCCD	SC	08-29-2022		Motion to Extend Time Filed By: Cole Ruby Submit Date: 8-29-2022 Decision: (G) Grant Decision Date: 8-31-2022 IT IS ORDERED that the motion is granted. Barnes' reply brief shall be served and filed on or before September 9, 2022. Additional extension requests will be viewed with disfavor. See BR3 event due on 9-9-2022
OCCD	SC	08-25-2022		Rejected Electronic Document Comment: The electronic copy of the "Motion to Extend Time Limits For Reply Brief" is rejected because there is currently no statutory provision for the acceptance of this type of electronic document in the Supreme Court. Please send the requisite number of hardcopies to the clerks office for filing if you have not done so already.
OCCD	SC	08-11-2022		Response Brief-Supreme Court Response Brief - Supreme Court Filed By: John Kellis
OCCD	SC	08-03-2022		Assigned-Oral Argument
OCCD	SC	07-20-2022		Motion to Extend Time

Filed By: John Kellis
Submit Date: 7-21-2022
Decision: (G) Grant
Decision Date: 7-21-2022

IT IS ORDERED that the motion is granted. The State's response brief shall be served and filed on or before August 11, 2022. Additional requests for an extension of time by plaintiff-respondent, State of Wisconsin, to file its response brief will be viewed with disfavor.

See BR2 event due on 8-11-2022
Comment: 3rd request

OCCD SC 06-28-2022 Motion to Extend Time

Filed By: John Kellis
Submit Date: 6-29-2022
Decision: (G) Grant
Decision Date: 7-5-2022

IT IS ORDERED that the motion is granted. The State's response brief shall be served and filed on or before July 21, 2022.
See BR2 event due on 7-21-2022

OCCD SC 06-02-2022 Motion to Extend Time

Filed By: John Kellis
Submit Date: 6-3-2022
Decision: (G) Grant
Decision Date: 6-10-2022

IT IS ORDERED that the motion is granted. Plaintiff-respondent response brief shall be served and filed on or before July 6, 2022.
See BR2 event due on 7-6-2022

OCCD SC 05-16-2022 [First Brief-Supreme Court](#)
[First Brief-Supreme Court](#)

Filed By: Cole Ruby
Comment: Please note the case number was corrected on the front cover of this brief. The e-filing certification pursuant to Rule 809.19(12) was added to this brief. First Brief-Supreme Court

OCCD SC 04-15-2022 Caption Amended

OCCD SC 04-15-2022 Court Changed to Supreme Court

OCCD CA 03-11-2022 Letter/Correspondence

Comment: letter/brief from State per cto of 3/7/22

OCCD SC 03-11-2022 Response

Comment: Letter/brief due from State by this date per cto 3/7/22

OCCD SC 03-07-2022 Court Order

IT IS ORDERED that plaintiff-respondent, State of Wisconsin, shall file a letter/brief by March 14, 2022, discussing the impact of the Hemphill case and responding to the defendant-appellant's motion.

OCCD CA	02-16-2022	Rejected Electronic Document
<p>Comment: The electronic copy of the "Letter with supplemental authority supporting petition" is rejected because there is currently no statutory provision for the acceptance of this type of electronic document in the Supreme Court. Please send the requisite number of hardcopies to the clerks office for filing if you have not done so already.</p>		
OCCD SC	01-11-2022	Court Order
<p>IT IS ORDERED that the petition for review shall be held in abeyance pending the U.S. Supreme Court's disposition of Hemphill v. New York, U.S. Case No. 20-637 (cert. granted April 10, 2021; oral argument held October 4, 2021).</p>		
OCCD SC	10-28-2021	Response
<p>Comment: Response to petition for review due per cto 9/14/21</p>		
OCCD SC	09-23-2021	Motion to Extend Time
<p>Filed By: John Kellis Submit Date: 9-24-2021 Decision: (G) Grant Decision Date: 9-27-2021 IT IS ORDERED that the motion is granted. Plaintiff-respondent's response to the petition for review shall be filed on or before October 28, 2021. See RSP event due on 10-28-2021</p>		
OCCD SC	09-20-2021	Other Papers
<p>Comment: Letter from AAG Kellis re: assigned to matter</p>		
OCCD SC	09-14-2021	Court Order
<p>ORD that the plaintiff-respondent, State of Wisconsin, is directed to serve and file a response to the petition for review on or before 9/28/21.</p>		
OCCD SC	05-14-2021	Fee Paid
<p>Comment: Receipt No: 21R 001070</p>		
OCCD SC	05-13-2021	Letter/Correspondence
<p>Comment: Letter from Atty Ruby enclosing filing fee check for petition for review</p>		
OCCD SC	05-10-2021	Petition for Review Response to Petition for Review Petition for Review
<p>Filed By: Cole Ruby Submit Date: 5-14-2021 Decision: (G) Grant Decision Date: 4-15-2022 IT IS ORDERED that the petition for review is granted as to the following issue only (designated as issue number two in the petition for review) and that pursuant to Wis. Stat. (Rule) 809.62(6), the defendant-appellant-petitioner may not raise or argue any other issues unless otherwise ordered by the court; 2. (a) Can a defendant open the door to testimonial hearsay violating his confrontation rights, and which</p>		

was excluded based on an egregious discovery violation, by challenging the quality of the police investigation?

(b) Can the claim that a non-testifying officer witnessed the defendant commit the crime be admitted over hearsay objections under the theory that it is admissible to show the course of investigation, not for the truth of the matter asserted?;

IT IS FURTHER ORDERED that pursuant to Wis. Stat. (Rules) 809.62(6) and 809.63, within 30 days after the date of this order the defendant-appellant-petitioner 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 a party has not previously filed an electronic copy of the b

OCCD CA 04-28-2021
397 Wis. 2d 241

Cites

OCCD CA 04-28-2021
959 N.W.2d 75

Cites

OCCD CA 04-28-2021

Opinion Ordered Unpublished

OCCD CA 04-05-2021

Motion for Reconsideration

Filed By: Cole Ruby

Submit Date: 4-5-2021

Decision: (D) Deny

Decision Date: 4-8-2021

IT IS ORDERED that the motion for reconsideration is denied.

OCCD CA 03-16-2021

[Opinion/Decision](#)

Judge Panel: Stark, Hruz, Seidl

Opinion: Per Curiam

Decision: Affirmed Pages: 25

Order Text: Judgment and order affirmed.

OCCD CA 03-03-2021

Sua Sponte

Filed By: Unassigned District 3

Submit Date: 3-3-2021

Decision: (N) No Action

Decision Date: 3-4-2021

IT IS ORDERED that the appellant's letters shall be placed in the court's correspondence file without further action.

Motion Response

Filed By: Garland Barnes

Submit Date: 3-3-2021

Motion Response

Filed By: Garland Barnes

Submit Date: 3-3-2021

Comment: 3 separate letters received from appellant, each directed to a different D3 judge, all titled "Time Line"

OCCD CA 09-28-2020 Attorney address updated
Comment: Address changed for attorney: 32925 Aaron R. O'Neil

OCCD CA 03-10-2020 Submitted on Briefs

OCCD CA 11-27-2019 Briefs Received At State Law Library

OCCD CA 11-08-2019 Record and Briefs Sent to District 3

OCCD CA 11-07-2019 Rejected Electronic Document

Comment: This electronic version of the Reply brief has a document type description that reads "Brief of Appellant", as selected by the filing party. This document type description is not accurate and the e-document must therefore be rejected. Please upload a corrected electronic version of the brief and select "Reply brief" so that the correct colored electronic indicator bar (gray) will associate with the e-brief upon acceptance. Please notify clerk's office staff when done by calling 608-266-1880 so that it may be accepted for filing. Failure to notify may result in the delayed acceptance of the corrected e-document.

OCCD CA 11-04-2019 Reply Brief
[Reply brief](#)

Filed By: Cole Ruby

OCCD CA 10-21-2019 Motion to Extend Time

Filed By: Cole Ruby

Submit Date: 10-21-2019

Decision: (G) Grant

Decision Date: 10-23-2019

ORD that the time for filing the reply brief is extended to 11/4/19.

See BRY event due on 11-4-2019

OCCD CA 10-03-2019 Brief of Respondent(s)
[Brief of Respondent](#)

Filed By: 32925 (O'Neil, Aaron)

OCCD CA 09-16-2019 Motion to Extend Time

Filed By: 32925 (O'Neil, Aaron)

Submit Date: 9-17-2019

Decision: (G) Grant

Decision Date: 9-18-2019

ORD that the time for filing the respondent's brief is extended to 10-3-2019.

See BRS event due on 10-3-2019

Comment: 2nd request

OCCD CA 08-19-2019 Motion to Extend Time
Filed By: 32925 (O'Neil, Aaron)
Submit Date: 8-20-2019
Decision: (G) Grant
Decision Date: 8-22-2019
ORD that the time to file the State's brief is extended to 9/18/19.
See BRS event due on 9-18-2019

OCCD CA 08-01-2019 Letter/Correspondence
Comment: sunstitute AAG Aaron O'Neil for Criminal Appeals Unit

OCCD CA 07-17-2019 Brief & Appx of Appellant(s)
[Brief of Appellant](#)
Filed By: Cole Ruby
Comment: Please note that the separate appendix did not have front and back covers, and for that reason the separate appendix has been combined with the brief. Note that separate appendices must have white front and back covers which contain relevant case information, pursuant to Rule 809.19(9).

OCCD CA 07-12-2019 Non-Electronic Record Item
Comment: Exhibit for Postconviction Motion Hearing CD

OCCD CA 07-12-2019 Supplement to Record
Comment: 181-1 to 181-1 ELECTRONICALLY FILED

OCCD CA 06-13-2019 Motion to Correct/Supplement Record
Filed By: Cole Ruby
Submit Date: 6-26-2019
Decision: (G) Grant
Decision Date: 6-28-2019
ORD that, within 5 business days, the clerk of the circuit court shall either transmit a non-electronic supplemental return with the recording of the drug transaction to this court, or provide this court with an explanation if there is some impediment to doing so. FRO that the time for the appellant to file his initial brief and appendix shall be extended to 10 days after the supplemental return has been filed.

OCCD CA 05-17-2019 Motion to Extend Time
Filed By: Cole Ruby
Submit Date: 5-20-2019
Decision: (G) Grant
Decision Date: 6-4-2019
ORD that the time to file the appellant's brief and appendix is extended to 6-14-2019.
See BAP event due on 6-14-2019

OCCD CA 04-30-2019 Supplement to Record
Comment: 169-1 to 180-88, ELECTRONICALLY FILED

OCCD CA 04-09-2019 Court Reporter's Statement-Trans.
Court Reporter Name: (Nagel, Dorothy)

OCCD CA	04-01-2019	Transcript filed in Circuit Court
OCCD CA	02-14-2019	Court Order ORD that, by 4/16/19, the clerk of the circuit court shall submit a supplemental return to this court with the transcript of the 9/5/18 motion hearing. FRO that the appellant's initial brief and appendix shall be due 5/16/19.
OCCD CA	02-12-2019	Statement on Transcript Filed By: Cole Ruby Status: Ordered Comment: due date per cto 12/3/18
OCCD CA	02-08-2019	Motion to Extend Time Filed By: Cole Ruby Submit Date: 2-8-2019 Decision: (G) Grant Decision Date: 2-11-2019 ORD that the time to file the statement on transcript is extended to 2-21-2019. See SRT event due on 2-21-2019 Comment: 2nd request
OCCD CA	01-29-2019	Motion to Extend Time Filed By: Cole Ruby Submit Date: 1-29-2019 Decision: (O) Other Decision Date: 2-1-2019 ORD that the briefing schedule shall be held in abeyance until the statement on transcript has been filed. See BAP event due on 1-14-2019
OCCD CA	01-24-2019	Delinquent Comment: New due date of connected BAP: 2-1-2019
OCCD CA	01-04-2019	Motion to Extend Time Filed By: Cole Ruby Submit Date: 1-4-2019 Decision: (G) Grant Decision Date: 1-9-2019 ORD that the time to file a statement on transcript in this matter is extended to 2/7/19. See SRT event due on 2-7-2019
OCCD CA	12-05-2018	Record Comment: 1-1 to 168-56 ELECTRONICALLY FILED
OCCD CA	10-19-2018	Notif. Sent-Filing of NAP & Ct. Record
OCCD CA	10-19-2018	Notice of Appeal & Court Record

OCCD CA	10-19-2018	X Transfer
OCCD CA	10-15-2018	Indig. Forms/Motion filed by pro se
	<p>Filed By: Garland Barnes Submit Date: 2-8-2019 Decision: (G) Grant Decision Date: 2-8-2019 ORD court grants permission to proceed without payment of filing fee. Comment: 10/15/18 rec'd circuit court fee waiver form attached to MMS filed by Atty Ruby, per cto 12/3/18 CA clk to perform fee waiver determination</p>	
OCCD CA	10-15-2018	Motion for Miscellaneous Relief
	<p>Filed By: Cole Ruby Submit Date: 10-19-2018 Decision: (O) Other Decision Date: 12-3-2018 ORD that the clerk of this court shall process the appellant's affidavit of indigency in support of his request to waive prepayment of the filing fee according to the standard criteria. FRO that the motion to waive the costs of preparing transcripts is denied as misdirected. The time for the appellant to file his overdue statement on transcript is extended to 1/3/19. Comment: Motion to Waive Costs and Fees Associated with Appeal Due to Indigency; duplicate motion rec'd 10/19/18 via US Mail</p>	
OCCD CA	10-15-2018	Notice of Appeal filed in Cir. Ct.
OCCD CA	09-19-2018	MXT to Decide Postconviction Motion
	<p>Filed By: Cole Ruby Submit Date: 9-20-2018 Decision: (G) Grant Decision Date: 9-24-2018 ORD that the order deciding the defendant's postconviction motion shall be deemed to have been timely filed, and the time for the defendant to file a notice of appeal is extended to 10-15-2018.</p>	
OCCD CA	09-06-2018	Order of Circuit Court
OCCD CA	03-01-2018	MXT to file NAP/PCM
	<p>Filed By: Cole Ruby Submit Date: 3-1-2018 Decision: (G) Grant Decision Date: 3-2-2018 ORD that the time for filing a postconviction motion or notice of appeal is extended to 3/30/18.</p>	
OCCD CA	01-08-2018	MXT to file NAP/PCM
	<p>Filed By: Cole Ruby Submit Date: 1-8-2018 Decision: (G) Grant Decision Date: 1-9-2018 ORD that the time for filing a postconviction motion or notice of appeal is extended to 2/22/18.</p>	

OCCD CA 10-27-2017 MXT to file NAP/PCM
Filed By: Cole Ruby
Submit Date: 10-27-2017
Decision: (G) Grant
Decision Date: 10-30-2017
ORD that the time for filing a postconviction motion or notice of appeal is extended to 12/22/17.

OCCD CA 08-28-2017 MXT to file NAP/PCM
Filed By: Cole Ruby
Submit Date: 8-28-2017
Decision: (G) Grant
Decision Date: 8-29-2017
ORD that the time for filing a postconviction motion or notice of appeal is extended to 10-23-2017.

OCCD CA 06-28-2017 MXT to file NAP/PCM
Filed By: Cole Ruby
Submit Date: 6-28-2017
Decision: (G) Grant
Decision Date: 6-29-2017
ORD that the time for filing a postconviction motion or notice of appeal is extended to 8/22/17.

OCCD CA 04-18-2017 Attorney address updated
Comment: Address changed for attorney: 20309 Daniel W. Blank

OCCD CA 03-20-2017 MXT to file NAP/PCM
Filed By: Cole Ruby
Submit Date: 3-20-2017
Decision: (G) Grant
Decision Date: 3-22-2017
ORD that the time for filing a postconviction motion or notice of appeal is extended to 5/17/17.

OCCD CA 01-23-2017 MXT to file NAP/PCM
Filed By: Cole Ruby
Submit Date: 1-23-2017
Decision: (G) Grant
Decision Date: 1-24-2017
ORD that the time for filing a postconviction motion or notice of appeal is extended to 3/17/17.

OCCD CA 11-08-2016 MXT to file NAP/PCM
Filed By: Cole Ruby
Submit Date: 11-8-2016
Decision: (G) Grant
Decision Date: 11-8-2016
ORD that the time for filing a postconviction motion or a notice of appeal is extended to 1/16/17.

OCCD CA 11-07-2016 MXT to file NAP/PCM
Filed By: Garland Barnes
Submit Date: 11-7-2016
Decision: (G) Grant

Decision Date: 11-8-2016

ORD that the time for filing a postconviction motion or a notice of appeal is extended to 1/16/17.

OCCD CA 09-28-2016

Other Papers

Comment: Rec'd copy of Motion to Supplement or Correct the Record" filed in circuit court by Garland Barnes.

OCCD CA 08-22-2016

MXT to file NAP/PCM

Filed By: Garland Barnes

Submit Date: 8-22-2016

Decision: (G) Grant

Decision Date: 8-25-2016

IT IS ORDERED that the time for filing a postconviction motion or notice of appeal is extended to November 7, 2016.

OCCD CA 06-30-2016

MXT to file NAP/PCM

Filed By: Angela Henderson

Submit Date: 6-30-2016

Decision: (G) Grant

Decision Date: 7-1-2016

ORD that the time for filing a postconviction motion or notice of appeal is extended to 9/5/16.

OCCD CA 03-30-2016

Attorney address updated

Comment: Address changed for attorney: 35439 Angela Dawn Henderson

OCCD CA 03-11-2016

MXT to file Transcript

Filed By: Julie Malinoski

Submit Date: 3-11-2016

Decision: (G) Grant

Decision Date: 3-14-2016

ORD that the time for filing the transcripts is extended to 3/31/16.

OCCD CA 01-11-2016

MXT to file Transcript

Filed By: Angela Henderson

Submit Date: 1-12-2016

Decision: (G) Grant

Decision Date: 1-14-2016

ORD that the time for requesting transcripts and the court record is extended to 1/21/16.

OCCD CA 10-08-2015

Judgment of Circuit Court