

Wisconsin Supreme Court and Court of Appeals Case Access

Joshua L. Kaul v. Frederick Prehn

Appeal Number 2021AP001673

Supreme Court

CASE HISTORY

Status	Court	Filing Date	Anticipated Due Date	Activity
OCCD	SC	08-08-2022		Remittitur
OCCD	SC	06-29-2022		Cites 976 N.W.2d 821
OCCD	SC	06-29-2022		Cites 402 Wis. 2d 539
OCCD	SC	06-29-2022		Opinion/Decision Judge Panel: Roggensack, Bradley, Ziegler, Bradley, Dallet, Hagedorn, Karofsky Opinion: Opinion Decision: Affirmed Pages: 33 Written by: Ziegler, Annette K. Dallet, Rebecca F. Wrote Dissenting Opinion 16 pages. Bradley, Ann Walsh Joined Dissenting Opinion Karofsky, Jill Joined Dissenting Opinion Order Text: The judgment and the order of the circuit court are affirmed. Comment: Opinion/Decision - Supreme Court
OCCD	SC	06-28-2022		Public Domain Citation Comment: PDC No: 2022 WI 50
OCCD	SC	05-16-2022		Certificate of Filing by Mail Comment: re: Notice of Withdrawal for AAG Hector
OCCD	SC	05-10-2022		Other Papers Comment: Notice of Withdrawal as Counsel for AAG Colin A. Hector; rcv'd add'l paper copies 5/11/22; rcv'd add'l paper copies 5/16/22
OCCD	SC	03-10-2022		Oral Argument Comment: at 9:45, second case (in the Capitol Hearing Room). Gabe Johnson-Karp for Plaintiff-Appellant. Mark Maciolek for Defendant-Respondent. Ryan J. Walsh for

Intervenor-Defendant-Respondent.

OCCD SC 03-09-2022 Additional Authorities
Comment: Filed by Attorney Ryan Walsh on behalf of Wisconsin Legislature

OCCD SC 02-14-2022 Other Papers
Comment: ret. mail; 2/4/22 CTO; Reply Brief Ack. for Daniel Suhr, remailed to updated address

OCCD SC 02-11-2022 [Brief of Amicus Curiae](#)
[Amicus Brief - American Federation of Teachers-Wisconsin](#)
[Appendix to Amicus Brief of American Federation of](#)
[Teachers-Wisconsin](#)

Filed By: Scott Thompson
Comment: American Federation of Teachers-Wisconsin. Please note that the e-file certification pursuant to Rule 809.19(12)(f) has been added to this brief.

OCCD SC 01-31-2022 [Reply Brief-Supreme Court](#)
[BR3 - State of Wisconsin's Reply Brief](#)

Filed By: 39939 (Johnson-Karp, Gabe)

OCCD SC 01-30-2022 Letter/Correspondence
Comment: Cover letter filing BR3

OCCD SC 01-20-2022 Assigned-Oral Argument

OCCD SC 01-20-2022 [Brief of Amicus Curiae](#)
[Brief of Amicus Curiae \(Humane Society of the US and Center for](#)
[Biological Diversity\)](#)

Filed By: Christa Westerberg
Comment: Humane Society of the United States and the Center for Biological Diversity Brief of Amicus Curiae (Humane Society of the US and Center for Biological Diversity)

OCCD SC 01-19-2022 Motion to File Amicus/Non-Party Brief
Filed By: Christa Westerberg
Submit Date: 1-19-2022
Decision: (G) Grant
Decision Date: 1-20-2022
IT IS ORDERED that the motion for leave to file a non-party brief amicus curiae is granted. The brief filed with the motion is accepted as filed.
Comment: Humane Society of the United States and the Center for Biological Diversity

OCCD SC 01-19-2022 Motion to File Amicus/Non-Party Brief
Filed By: Scott Thompson
Submit Date: 1-19-2022
Decision: (O) Other
Decision Date: 2-4-2022
IT IS ORDERED that the motion for leave to file a non-party brief is granted as to the American Federation of Teachers-Wisconsin only. Twenty-two copies of the brief shall be filed on or before

February 11, 2022. If any other non-party wishes to file a non-party brief or to join the non-party brief filed by the American Federation of Teachers-Wisconsin, that non-party must seek leave of the court.
Comment: American Federation of Teachers - Wisconsin (AFT-WI)

OCCD SC 01-14-2022 Motion to Extend Time
Filed By: 39939 (Johnson-Karp, Gabe)
Submit Date: 1-19-2022
Decision: (G) Grant
Decision Date: 2-4-2022
IT IS ORDERED that the motion for an expansion of the word limit is granted, with the word limit of the reply brief not to exceed 4,500 words; and
IT IS FURTHER ORDERED that the motion for an extension of time is granted. Plaintiff-appellant's reply brief is accepted for filing as of January 31, 2022.
See BR3 event due on 1-20-2022
Comment: MXT to file BR3/Increase word limit

OCCD SC 01-06-2022 Rejected Electronic Document
Comment: Duplicate filing of brief.

OCCD SC 01-05-2022 Response Brief-Supreme Court
[BR2 - Dr. Frederick Prehn](#)
Filed By: Mark Maciolek
Comment: Dr. Frederick Prehn

OCCD SC 01-05-2022 Response Brief-Supreme Court
[BR2 - Wisconsin Legislature](#)
Filed By: Ryan Walsh
Comment: Wisconsin Legislature

OCCD SC 12-22-2021 Motion to File Amicus/Non-Party Brief
Filed By: Daniel Suhr
Submit Date: 12-22-2021
Decision: (D) Deny
Decision Date: 1-11-2022
IT IS ORDERED that the motion is denied.
Comment: Motion to File Amicus/Non-Party Brief

OCCD SC 12-16-2021 Letter/Correspondence
Comment: Letter - State's cover letter filing BR1 1/11/22 SC Order

OCCD SC 12-16-2021 Caption Amended

OCCD SC 12-16-2021 First Brief-Supreme Court
[BR1 First Brief - Supreme Court](#)

OCCD SC 11-18-2021 Notice of Appearance
Comment: Atty. Adam J. Meyers appearing for DEF-RES Frederick Prehn

OCCD SC 11-18-2021 Notice of Appearance
Comment: Atty. Julia T. Walsh appearing for DEF-RES Frederick Prehn

OCCD SC 11-17-2021 Letter/Correspondence
Comment: copy; AAG Johnson-Karp letter updating status in case 21AP1610, refers to petition to bypass being granted. SC order

OCCD SC 11-16-2021 Court Changed to Supreme Court

OCCD CA 11-16-2021 Hold Status

OCCD SC 11-09-2021 Motion for Miscellaneous Relief
Filed By: Ryan Walsh
Submit Date: 11-16-2021
Decision: (G) Grant
Decision Date: 11-16-2021
ORD the petition to bypass is granted, and the appeal is accepted for consideration in this court; and
FRO that the motion of the Wisconsin Legislature for leave to file a reply memorandum in support of its
motion for intervention is now pending before this court and is granted, and the proposed reply
memorandum is accepted for filing; and
FRO that the Wisconsin Legislatures motion for intervention is now pending before this court and will be
addressed in a forthcoming order; and
FRO that within 30 days after the date of this order the appellant must file a brief in this court; that within
20 days of filing the respondent must file a brief; and that within 10 days of filing the appellant must file
either a reply brief or a statement that no reply brief will be filed;
FRO that the parties will be notified of the date and time for oral argument in this appeal in due course.
Comment: Motion for leave to file reply brief in support of petition to intervene, Initially filed in CA,
transferred to SC when bypass granted (11/16/21)

OCCD CA 11-09-2021 Motion for Miscellaneous Relief
Filed By: Ryan Walsh
Submit Date: 11-9-2021
Decision: (N) No Action
Decision Date: 11-16-2021
No action. (Initially filed in CA transferred to SC when bypass granted)
Comment: Motion for leave to file reply brief in support of petition to intervene, Initially filed in CA,
transferred to SC when bypass granted (11/16/21)

OCCD CA 11-03-2021 Letter/Correspondence
Comment: State's response to affidavit of no service from Atty. Walsh.

OCCD CA 11-03-2021 Affidavit of No Service filed
Comment: Atty. Walsh has not received State's response to motion to intervene, advises a motion to
respond will be filed

OCCD CA 10-27-2021 Court Order
IT IS ORDERED that the petition to intervene is held in abeyance pending action by the Wisconsin
Supreme Court.
IT IS FURTHER ORDERED that the State shall notify this court within five business days following the

disposition of the petition for bypass in this matter.

OCCD CA 10-26-2021 Other Papers
Comment: Non-Party Wis. Legislatures response to the State's PYB

OCCD SC 10-26-2021 Motion for Miscellaneous Relief
Filed By: Ryan Walsh
Submit Date: 10-26-2021
Decision: (G) Grant
Decision Date: 10-29-2021
IT IS ORDERED the motion is granted, and the attached proposed memorandum of law in opposition to the petition for bypass is accepted for filing.
Comment: 10/29/21 Court Order

OCCD SC 10-20-2021 Letter/Correspondence
Comment: Non-party Wis. Legislature by Ryan Walsh advise it will soon be filing a motion for leave to file a non-party brief opposing the petition to bypass and a non-party brief opposing the petition to bypass.

OCCD CA 10-14-2021 Rejected Electronic Document
Comment: 2 copies of the response to the petition to bypass were uploaded. One copy has been accepted. There is no need to respond to this rejection.

OCCD CA 10-14-2021 Record
Comment: 1-9 to 61-1, ELECTRONICALLY FILED

OCCD CA 10-11-2021 Rejected Electronic Document
Comment: On April 23, 2021, the Wisconsin Supreme Court adopted Rule Petition 20-07, Appellate eFiling, and, on June 15, 2021, ordered mandatory eFiling taking effect in the Court of Appeals on July 1, 2021. The Supreme Court, however, has not converted over to eFiling as of this date. As a consequence, this filing is rejected and physical copies of this motion are still required to be filed in the clerks office.

OCCD SC 09-29-2021 Motion to Intervene
[The Wisconsin Legislature's Reply in Support of its Petition to Intervene](#)
Filed By: Ryan Walsh
Submit Date: 11-16-2021
Decision: (G) Grant
Decision Date: 12-16-2021
IT IS ORDERED that the Legislatures motion to intervene is granted. The court agrees that permissive intervention is appropriate and reserves for another day whether the Legislature would be entitled to intervene under Wis. Stat. 803.09(2m). The Wisconsin Legislature shall be added to the review in this court as a defendant-respondent and, as such, shall file its primary brief in accord with the briefing schedule set forth in this courts November 16, 2021 order granting bypass.
Motion Response
Filed By: 39939 (Johnson-Karp, Gabe)
Submit Date: 11-16-2021
Motion Response
Filed By: Ryan Walsh

Submit Date: 11-17-2021
Motion Response
Filed By: 39939 (Johnson-Karp, Gabe)
Submit Date: 11-24-2021
Comment: Initially filed in CA, transferred to SC when bypass granted (11/16/21)

OCCD CA 09-29-2021 Motion to Intervene
Filed By: Ryan Walsh
Submit Date: 9-29-2021
Decision: (N) No Action
Decision Date: 11-16-2021
No action. (Initially filed in CA transferred to SC when bypass granted)
Motion Response
Filed By: 39939 (Johnson-Karp, Gabe)
Submit Date: 10-11-2021
Comment: Wisconsin Legislature Response to the Motion to Intervene; Initially filed in CA, transferred to SC when bypass granted (11/16/21)

OCCD SC 09-27-2021 Petition to Bypass
[WI Legislature's Opposition to the State's Petition for Bypass](#)
Filed By: 39939 (Johnson-Karp, Gabe)
Submit Date: 10-12-2021
Decision: (G) Grant
Decision Date: 11-16-2021
IT IS ORDERED the petition to bypass is granted, and the appeal is accepted for consideration in this court; and
IT IS FURTHER ORDERED that the motion of the Wisconsin Legislature for leave to file a reply memorandum in support of its motion for intervention is now pending before this court and is granted, and the proposed reply memorandum is accepted for filing; and
IT IS FURTHER ORDERED that the Wisconsin Legislatures motion for intervention is now pending before this court and will be addressed in a forthcoming order; and
IT IS FURTHER ORDERED that within 30 days after the date of this order the appellant must file a brief in this court; that within 20 days of filing the respondent must file a brief; and that within 10 days of filing the appellant must file either a reply brief or a statement that no reply brief will be filed; and IT IS FURTHER ORDERED that the parties will be notified of the date and time for oral argument in this appeal in due course.
REBECCA GRASSL BRADLEY, J. (concurring). I concur with the court's decision in this case to grant the Attorney General's petition to bypass the court of appeals; the respondent joins the request for this court to expedite appellate review. This case presents purely legal issues of statutory interpretation, which implicate the separation of powers. I write separately to highlight the court's inconsistency in following its purported practice of denying petitions to bypass prior to the filing of briefs in the court of appeals, which it sometimes deems "premature" except when it doesn't. [...] I am authorized to state that ANNETTE KINGSLAND ZIEGLER, C.J., and PATIENCE DRAKE ROGGENSACK, J., join this concurrence.
REBECCA FRANK DALLET, J. (concurring). I write separately to clarify the reasons for granting the petition for bypass even though the parties have yet to file their principal briefs with th

OCCD CA 09-24-2021 Notice of Docketing of Appeal

OCCD CA 09-24-2021 Transfer to District I

OCCD CA 09-24-2021 Transfer District Designation

WSCCA Case History

OCCD CA 09-23-2021 Statement on Transcript
Filed By: 39939 (Johnson-Karp, Gabe)
Status: Prev. Filed
Comment: Statement on Transcript

OCCD CA 09-23-2021 Notice of Appeal & Court Record
Comment: Notice of Appeal Circuit Court Docket

OCCD CA 09-23-2021 Docketing Statement from Appellant
Comment: Docketing Statement from Appellant

OCCD CA 09-20-2021 Notice of Appeal filed in Cir. Ct.

OCCD CA 09-17-2021 Order of Circuit Court
