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STATE OF WISCONSIN

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COURT OF APPEALS

**CLERK OF COURT OF APPEALS
OF WISCONSIN**

Appeal No. 2015AP000953 CR

DISTRICT II

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

HENRY J. BLOEDORN,

Defendant-Appellant.

APPEAL FROM AN ORDER DENYING POSTCONVICTION RELIEF, ENTERED
IN THE OZAUKEE COUNTY CIRCUIT COURT, THE HONORABLE PAUL V.
MALLOY, PRESIDING

DEFENDANT-APPELLANT'S REPLY TO PLAINTIFF-RESPONDENT'S BRIEF

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ARGUMENT

The State argues Bloedorn never received copies of the discovery materials because he never asked for copies of the discovery materials. However, in both of Bloedorn's letters to the court he specifically informs the court "not once has anyone shown me evidence" (R.25) and "I have never been told or shown any evidence." (R. 27) Surely the State is not implying that a defendant should have to tell an experienced defense attorney how to do their job.

The State argues Bloedorn was required to complete the presentence investigation report due to the fact that it was court ordered. The State however fails to recognize that the Court offered Bloedorn the opportunity to proceed to trial. Attorney Kratz committed a grievous error by not having his client withdraw his guilty plea. Attorney Kratz should have withdrawn the guilty plea thus stopping the presentence investigation. If a decision was then equally made between Attorney Kratz and Bloedorn to enter an Alford Plea, with Bloedorn fully understanding this decision, Bloedorn should have been instructed to be fully

cooperative with the author of the presentence investigator and, perhaps, Bloedorn could then have received a more favorable recommendation. Obviously, this was not fully discussed and understood by Bloedorn. It is inconceivable that a competent lawyer, with the State agreeing to make no specific recommendation in regard to prison or jail, and the presentence investigation report recommending 9 to 10 years, would argue 25 years imposed and stayed. It is an undeniable fact that the court did impose 25 years, but did not stay the same.

The State contends that Bloedorn's wife's testimony waivers as to evidence being discussed at the meetings with Attorney Kratz and Bloedorn, and the length of those meetings. Bloedorn's letters to the court are consistent with his wife's testimony as to the fact that evidence was never discussed at such meetings. The State contends that Bloedorn's wife's recollections were varying and faulty in regard to time spent with her and Bloedorn. Laura Bloedorn's testimony was consistent in time frame (R.88:33-90) in regard to appointments she and her husband had with Attorney Kratz, varying only between 5 minutes to

approximately 20 minutes, and she backs Bloedorn's letters in her testimony that Attorney Kratz rarely said anything of substance at their meetings, that "basically he was concerned about his receptionist..." and "his dog was always there, so we talked about his dog. I mean he never discussed any - any business when I - what I would call real business." (R.88:86)

CONCLUSION

It remains the belief of the Defendant-Appellant, Henry Bloedorn, that Attorney Ken Kratz's failure to inspect all of the evidence with Henry Bloedorn in a thorough manner led to the lack of information resulting in the possible exclusion of evidence. As previously stated, at the very least, Attorney Kratz should have given his client copies of all of the evidence for his review so that said evidence could be thoroughly reviewed together, not withheld from Henry Bloedorn because Attorney Kratz contends Henry Bloedorn never asked for it, which is disputed by Henry Bloedorn's letters to the Court. Kratz failed to even minimally provide such evidence to his client. Attorney Kratz failed to assist his client in making a fully informed choice on whether to move forward

with a plea or trial. Henry Bloedorn continues to assert that Attorney Kratz never spent long meetings reviewing all of the evidence, never gave him any of the evidence to review, and if Attorney Kratz had given him effective assistance in this case, the outcome could very well be different.

Dated at Saukville, Wisconsin this 12th day of October, 2015.

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CERTIFICATION

I hereby certify that this brief conforms to the rules contained in Wis. Stat. 809.19 (8) (b) and (c) for a brief and appendix produced with a monospaced Courier New font. The length of the brief is 5 pages.

Date: October 12, 2015

Perry P. Lieuallen