

**RECEIVED**

STATE OF WISCONSIN **04-06-2017**

COURT OF APPEALS  
DISTRICT II

**CLERK OF COURT OF APPEALS  
OF WISCONSIN**

Appeal No. 2016AP001149

Circuit Court No.'s 2004CM000940, 2007CT002528,  
2008TR009102 and 2013TR005557

---

STATE OF WISCONSIN,

Plaintiff-Respondent,

v. Appeal No.

PAUL A. ADAMS,

Defendant-Appellant.

---

An Appeal From An Order Denying Defendant's For Relief  
Regarding Financial Obligations, Entered by the Honorable  
Ralph M. Ramirez, Circuit Judge, Branch 3, Waukesha County

---

BRIEF OF PLAINTIFF-RESPONDENT

---

Kevin M. Osborne  
Assistant District Attorney  
State Bar No. 1012489  
Waukesha County District Attorney's Office  
Waukesha County Courthouse  
515 West Moreland Boulevard  
Waukesha, Wisconsin 53188  
(262) 548-7076

**TABLE OF CONTENTS**

**TABLE OF AUTHORITIES..... 2**

**STATEMENT OF THE ISSUES ..... 3**

**POSITION ON ORAL ARGUMENT AND PUBLICATION..... 4**

**STATEMENT OF THE CASE ..... 5**

**ARGUMENT ..... 6**

**I. STANDARD OF REVIEW ..... 6**

**II. THE FINDINGS OF THE TRIAL COURT ARE  
APPROPRIATE..... 6**

**CONCLUSION..... 8**

**CERTIFICATION OF BRIEF ..... 9**

**CERTIFICATION OF COMPLIANCE WITH RULE  
809.19(12) ..... 10**

**CERTIFICATE OF MAILING ..... 11**

**APPENDIX TABLE OF CONTENTS ..... 12**

## **TABLE OF AUTHORITIES**

### **Wisconsin Cases**

*State v. Armstrong*, 223 Wis.2d 331, 352, 588 N.W.2d 606 (1999)...6

**STATEMENT OF THE ISSUES**

1. Did the defendant present enough evidence to allow the court to make a ruling on the defendant's motion?

Circuit Court Answer: No.

## **POSITION ON ORAL ARGUMENT AND PUBLICATION**

The Plaintiff-Respondent (“State”) submits that oral argument is unnecessary because the issues can be set forth fully in the briefs. Publication is unnecessary as the issues presented relate solely to the application of existing law to the facts of the record.

## **STATEMENT OF THE CASE**

Given the nature of the arguments raised in the brief of defendant-appellant, the State exercises its option not to present a statement of the case. *See* Wis. Stat. (Rule) 809.19(3)(a). The relevant facts and procedural history will be discussed in the argument section of this brief.

## ARGUMENT

### **I. STANDARD OF REVIEW**

The standard of review of a trial court's findings of evidentiary or historical facts is that those findings will not be upset on appeal unless they are contrary to the great weight and clear preponderance of the evidence. See State v. Armstrong, 223 Wis.2d 331, 352, 588 N.W.2d 606 (1999).

### **II. THE FINDINGS OF THE TRIAL COURT ARE APPROPRIATE.**

At the May 25, 2016, motion hearing the trial court made two primary findings. First, that the defendant financial obligations regarding 2004CM000940, which totaled \$2,674, could be satisfied by serving the alternate sentence of 54 days jail concurrent to his present incarceration. Since well over 54 days has passed, the defendant's financial obligation on that case has been satisfied without the defendant having to pay any money, and without serving any additional incarceration, since, as he acknowledged, he would have been incarcerated during those 54 days on other matters.

As to his issues regarding the financial obligations on the 2007CT002528, 2008TR009102 and 2013TR005557, the court found that "Mr. Adams hasn't presented enough information to the court to make a determination as to any other fees that are due in

[sic] owing. . . . Mr. Adams hasn't provided me with enough information such that I can find that they're inappropriate at this time." (R.71, App. 6:21-22, 7:3-4) Later the court added, as to the defendant's obligations on 2007CT002528, 2008TR009102 and 2013TR005557: "As to the remainder of the fees, the request for the forgiveness or modification, I'll deny the request at this time." (R.71, App. 7:8-9)

The finding that there are not enough facts is itself a finding of fact and unless that finding is contrary to the great weight and clear preponderance of the evidence should be upheld. It is not up to Judge Ramirez to do the research or to determine what is the basis for Mr. Adams argument. While the state understands that Mr. Adams is imprisoned, which makes it difficult to do his own research; that does not mean that it is the Judge's job to do it for him. Judge Ramirez's finding that there was not enough information for him to make a determination about the moneys owed by Mr. Adams is not contrary to the record and should be upheld.



**CONCLUSION**

For all the foregoing reasons, the State respectfully requests this Court affirm the Circuit Court's decision and deny the motion to suppress.

Dated this 5th day of April, 2017.

Respectfully,

/s/ Kevin M. Osborne  
Kevin M. Osborne  
Assistant District Attorney  
Waukesha County  
Attorney for Plaintiff-Respondent  
State Bar No. 1012489

**CERTIFICATION OF BRIEF**

I hereby certify that this document conforms to the rules contained in Wis. Stat. § 809.19(8)(b) and (c), for a brief and appendix produced with monospaced font. The length of this brief is 548 words long.

Dated this 5th day of April, 2017.

/s/ Kevin M. Osborne  
Kevin M. Osborne  
Assistant District Attorney  
Waukesha County  
Attorney for Plaintiff-Respondent  
State Bar No. 1012489

**CERTIFICATE OF COMPLIANCE WITH WIS. STAT. §  
(RULE) 809.19(12)**

I hereby certify that I have submitted an electronic copy of this brief, excluding the appendix, if any, which complies with the requirements of Wis. Stat. § 809.19(12).

I further certify that this electronic brief is identical in content and format to the printed form of the brief filed as of this date.

A copy of this certification has been served with the paper copies of this brief filed with the court and served on all opposing parties.

Dated this 5th day of April, 2017.

\_\_\_\_\_  
/s/ Kevin M. Osborne  
Kevin M. Osborne  
Assistant District Attorney  
Waukesha County  
Attorney for Plaintiff-Respondent  
State Bar No. 1012489

**CERTIFICATE OF MAILING**

I hereby certify pursuant to Wis. Stat. § 809.80(4) that, on the 5th day of April, 2017, I mailed 10 copies of the Brief of the Plaintiff-Respondent, properly addressed and postage prepaid, to the Wisconsin Court of Appeals, P.O. Box 1688, Madison, Wisconsin 53701-1688.

Dated this 5th day of April, 2017.

/s/ Kevin M. Osborne  
Kevin M. Osborne  
Assistant District Attorney  
Waukesha County  
Attorney for Plaintiff-Respondent  
State Bar No. 1012489

**APPENDIX TABLE OF CONTENTS**

TANSCRIPT OF MAY 25, 2016 MOTION  
HEARING.....APP. 1