

RECEIVED  
02-12-2021  
CLERK OF WISCONSIN  
SUPREME COURT

STATE OF WISCONSIN  
IN SUPREME COURT

---

No. 2019AP1209-CR

---

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

TODD N. TRIEBOLD,

Defendant-Appellant-Petitioner.

---

**RESPONSE IN OPPOSITION TO  
PETITION FOR REVIEW**

---

JOSHUA L. KAUL  
Attorney General of Wisconsin

DANIEL J. O'BRIEN  
Assistant Attorney General  
State Bar #1018324

Attorneys for Plaintiff-  
Respondent

Wisconsin Department of Justice  
Post Office Box 7857  
Madison, Wisconsin 53707-7857  
(608) 266-9620  
(608) 294-2907 (Fax)  
obriendj@doj.state.wi.us

The State of Wisconsin opposes the petition for review filed by Defendant-Appellant-Petitioner Todd N. Triebold for the following reasons:

1. The petition fails to demonstrate a need for this Court to second-guess the decision of the Court of Appeals.

2. The State acknowledges that the decision, recommended for publication, satisfies several criteria for review set out at Wis. Stat. § (Rule) 809.62(1r). (Pet. 2.) Even so, “review is a matter of judicial discretion, not of right, and will be granted only when special and important reasons are presented.” Wis. Stat. § (Rule) 809.62(1r).

3. This Court should decline to exercise its discretion to review the decision of the Court of Appeals because it is correct and analytically sound.

4. The court of appeals correctly and succinctly explained why Wisconsin had territorial jurisdiction under Wis. Stat. § 939.03(1)(c) over Triebold’s failure to comply with Wis. Stat. § 301.45, Wisconsin’s sex offender registration statute. When Triebold, a convicted sex offender in Wisconsin required to register here for life, moved from one residence in St. Paul, Minnesota to another residence in that city without notifying Wisconsin authorities of his change of address, it had a criminal consequence in this State, making him criminally liable under Wis. Stat. § 301.45(6)(a)1. *State v. Todd N. Triebold*, No. 2019AP1209-CR, slip op. ¶¶ 10–15 (Wis. Ct. App. Jan. 20, 2021).

5. The Court of Appeals correctly and succinctly explained why Triebold failed to overcome the presumption that his prosecution for violating Wisconsin’s sex offender registry statute was not preempted by the federal sex offender registry statute. The objectives of both the federal law and

Wisconsin's law, to keep track of sex offenders wherever they go, are consistent and Congress did not intend to prohibit Wisconsin from imposing even stricter requirements on its own offenders than the floor requirements set by federal law. *Id.* ¶¶ 16–22.

6. Finally, the Court of Appeals correctly and succinctly explained why Triebold's prosecution for failing to comply with Wisconsin's sex offender registration law was not barred by Wis. Stat. § 939.71, after he was prosecuted for violating Minnesota's sex offender registration law for failing to report the same move from one St. Paul address to another to Minnesota authorities. Each state's statute "requires proof of a fact for conviction which the other does not require," i.e., Triebold's failure to notify Minnesota authorities of his change of address, as required by the Minnesota statute, and his failure to notify Wisconsin authorities of his change of address, as required by Wis. Stat. § 301.45. *Id.* ¶¶ 23–27.

7. If this Court grants review, it will likely affirm the Court of Appeals after adopting most if not the entirety of its legal analysis. Assuming that is so, there is no reason to disturb its reasonable and legally sound decision. If ordered published, the decision should be allowed to stand as the controlling Wisconsin case law on these significant issues.

This Court should deny review.

Dated this 12th day of February 2021.

Respectfully submitted,

JOSHUA L. KAUL  
Attorney General of Wisconsin

A handwritten signature in cursive script that reads "Daniel J. O'Brien".

DANIEL J. O'BRIEN  
Assistant Attorney General  
State Bar #1018324


Attorneys for Plaintiff-  
Respondent

Wisconsin Department of Justice  
Post Office Box 7857  
Madison, Wisconsin 53707-7857  
(608) 266-9620  
(608) 294-2907 (Fax)  
obriendj@doj.state.wi.us

## CERTIFICATION

I hereby certify that this response conforms to the rules contained in Wis. Stat. § 809.62(4) for a response to petition for review produced with a proportional serif font. The length of this response is 492 words.

Dated this 12th day of February 2021.



---

DANIEL J. O'BRIEN  
Assistant Attorney General

## CERTIFICATE OF COMPLIANCE WITH WIS. STAT. § (RULE) 809.62(4)(b)

I hereby certify that I have submitted an electronic copy of this response to petition for review, excluding the appendix, if any, which complies with the requirements of Wis. Stat. §§ (Rules) 809.62(4)(b) and 809.19(12).

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

A copy of this certificate has been served with the paper copies of this response to petition for review filed with the court and served on all opposing parties.

Dated this 12th day of February 2021.



---

DANIEL J. O'BRIEN  
Assistant Attorney General