

FILED
10-22-2021
CLERK OF WISCONSIN
SUPREME COURT

**STATE OF WISCONSIN
IN SUPREME COURT
Case No. 2020AP000881 CR**

STATE OF WISCONSIN,
Plaintiff-Respondent-Respondent,

v.

KYLE M. KLEINSCHMIDT,
Defendant-Appellant-Petitioner.

**PETITION FOR REVIEW PURSUANT TO WISCONSIN
STATUTES SECTION 809.32(4)**

PETITION FOR REVIEW OF DECISION
IN THE COURT OF APPEALS, DISTRICT III
FILED OCTOBER 13, 2021

SUBMITTED BY:
CARL W. CHESSHIR
State Bar No. 01008915
Attorney for
Kyle Kleinschmidt
S101 W34417 Hwy LO
Suite B
Eagle, Wisconsin 53119
(414) 899-8579

**STATE OF WISCONSIN
IN SUPREME COURT
Case No. 2020AP000881 CR**

STATE OF WISCONSIN,
Plaintiff-Respondent-Respondent,

v.

KYLE M. KLEINSCHMIDT,
Defendant-Appellant-Petitioner.

COMPLIANCE CERTIFICATE

I hereby certify that this Petition for Review conforms to the form and length requirements of Rule 809.19(8)(b) and (c) in that it is typewritten using a proportional font. The length of this Petition for Review is 725 words.

Dated this 19th of October 2021.

Electronically signed by:

Carl W. Chesshir
Attorney for Respondent-Appellant-Petitioner,
Kyle Kleinschmidt
State Bar No. 1008915
S101 W34417 Hwy LO
Suite B
Eagle, Wisconsin 53119
(414) 899-8579
carlchesshir@chesshirlaw.com

**STATE OF WISCONSIN
IN SUPREME COURT
Case No. 2020AP000881 CR**

STATE OF WISCONSIN,
Plaintiff-Respondent-Respondent,

v.

KYLE M. KLEINSCHMIDT,
Defendant-Appellant-Petitioner.

**PETITION FOR REVIEW PURSUANT TO WISCONSIN
STATUTES SECTION 809.32(4)**

The Petitioner, Kyle Kleinschmidt, has requested appointed appellate counsel, Carl W. Chesshir, to file on his behalf, pursuant to Wisconsin Statutes Section 809.32(4), a Petition for Review of the adverse decision of the Court of Appeals in this case, filed October 13, 2021, which satisfies the requirements of Wisconsin Statutes Section 809.62(2)(d) and (f).

STATEMENT OF THE FACTS

On March 18, 2018, in the City of Merrill, Lincoln County Wisconsin, Kleinschmidt drove his pickup past Officer Perra who recognized Kleinschmidt and suspected Kleinschmidt did not have a valid drivers' license. (R. 3; Criminal Complaint). Officer Perra followed the pickup and noticed that the high-mounted stop light above the rear window of the pickup was not working, and, based on that observation initiated a traffic stop. (*Id.*). As a result of the traffic stop, Officer Perra discovered that Kleinschmidt did not have a valid driver's license and that he was on bail for a misdemeanor in another county. (*Id.*).

STATEMENT OF THE CASE

A Criminal Complaint was filed on March 19, 2018 which alleged one count of Operating Vehicle While Revoked and one count of Misdemeanor Bail Jumping against Kyle M. Kleinschmidt ("Kleinschmidt") pursuant to Wisconsin Statutes §§ 343.44(1)(b), 343.44(2)(ar)2, 946.49(1)(a) and 939.51(3)(a). (R. 3).

An initial appearance was held on March 19, 2018. (R. 70). At that time, the trial court entered not guilty pleas on behalf of Kleinschmidt and set cash bail at \$250.00. (*Id.* at 3-4).

On November 9, 2018 a plea and sentencing hearing was scheduled. (R. 69). At this hearing, Kleinschmidt's trial counsel moved to withdraw. (*Id.* at 2). The court granted the motion. (*Id.* at 3).

On February 1, 2019 a hearing was held on Kleinschmidt's motion to suppress. (R. 66). The court heard testimony from Police Officer Kurt Perra. (*Id.* at 3-17 and 45-50). The court also listened to arguments of counsel. (*Id.* at 17-44 and 50-67).

On March 19, 2019, the court issued a written decision denying Kleinschmidt's motion to suppress the traffic stop. (R. 39). Kleinschmidt moved to reconsider the motion. (R. 41). The trial issued a letter decision declining to reconsider the motion. (R. 43).

On June 10, 2019 the case was scheduled for a plea and sentencing hearing. (R. 68). At that time, Kleinschmidt requested an adjournment to address probation issues with his agent prior to sentencing. (*Id.* at 2-3). The court granted the adjournment. (*Id.* at 4).

On August 12, 2019 a plea and sentencing hearing was held. (R. 67). At this hearing, Kleinschmidt entered no contest pleas to the charges of Operating a Vehicle While Revoked and misdemeanor bail jumping. (*Id.* at 3-4). The court accepted Kleinschmidt's no contest pleas. (*Id.* at 8). The court heard testimony from Kleinschmidt's employer before rendering

a sentence. (*Id.* at 9-12). The court then withheld sentence and placed on probation for 18 months.

On October 12, 2021, the court of appeals issued its decision, which affirmed Kleinschmidt's Judgment of Conviction. (Decision, October 12, 2021 District III).

Dated this 19th of October 2021.

Electronically signed by:

Carl W. Chesshir
Attorney for Respondent-Appellant-Petitioner,
Kyle Kleinschmidt
State Bar No. 1008915
S101 W34417 Hwy LO
Suite B
Eagle, Wisconsin 53119
(414) 899-8579
carlchesshir@chesshirlaw.com