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03-20-2023
CLERK OF WISCONSIN
SUPREME COURT

STATE OF WISCONSIN
IN SUPREME COURT

No. 2021AP1445-CR

STATE OF WISCONSIN,

Plaintiff -Respondent,

v.

AYODEJI J. ADEREMI,

Defendant-Appellant-Petitioner.

RESPONSE TO PETITION FOR REVIEW

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The Plaintiff-Respondent State of Wisconsin opposes Defendant-Appellant-Petitioner Ayodeji J. Aderemi's Petition for Review on the following grounds:

1. Aderemi claims that this Court's review is needed to "clarify and harmonize the various statutes governing the e-filing of documents." (Pet. 11.) It is not. The statutes are clear; what Aderemi actually takes issue with is the circuit court's factual findings relative to those statutes and the court of appeals' affirmance of the court's decision based on those findings. Review by this Court would therefore merely involve revisiting the circuit court's factual findings yet again. Thus, the petition fails to meet the criteria for review set forth in Wis. Stat. § (Rule) 809.62(1r).

2. Aderemi's first issue presented reflects an attempt to graft a hearing requirement onto Wis. Stat. § 801.18(16); Aderemi then insists that review is necessary because the court of appeals disagreed with him that such a requirement exists. But Aderemi's hearing requirement has no basis in the e-filing statutes. This Court should not grant review simply because Aderemi says it must determine whether a non-existent statutory requirement should nevertheless exist.

3. Aderemi's second issue presented, whether the circuit court's finding of fact was clearly erroneous, calls for nothing more than this Court to correct a perceived error. But the Wisconsin Court of Appeals is the State's primary error-correcting court, not this Court. *State ex rel. Swan v. Elections Bd.*, 133 Wis. 2d 87, 93–94, 394 N.W.2d 732 (1986). Aderemi's dissatisfaction with the court of appeals' handling of the perceived error is not a sufficient reason for this Court to grant review.

4. Aderemi nevertheless argues that the circuit court's finding of fact "is at odds with how CCAP works." (Pet. 4 n.1.) He then offers an explanation of how CCAP works that

is unsupported by citation to the record or any other source. This signals a likelihood that Aderemi would attempt to make arguments in this Court unsupported by the factual record. To the extent this Court might conclude that review of an e-filing case is appropriate to interpret the statutes in light of how CCAP operates, this is not the case for it. Moreover, CCAP operations are not specified by statute to this degree. Thus, a holding based on “how CCAP works” could become outdated with little or no notice to future litigants, causing more confusion than it alleviates.

5. In his third issue presented, Aderemi suggests that Wis. Stat. § 971.26, which states that no “trial, judgment or other proceedings [shall] be affected by reason of any defect or imperfection in matters of form which do not prejudice the defendant,” does not apply to the timing requirement for the filing of the information set forth in Wis. Stat. § 971.01. (Pet. 16.) However, this Court would not need to reach this question because the circuit court properly determined the filing date of the information, and that date was timely. This Court generally decides cases on the narrowest grounds possible, *see Maryland Arms Ltd. Partnership v. Connell*, 2010 WI 64, ¶ 48, 326 Wis. 2d 300, 786 N.W.2d 15, so there would be no need to determine whether the lack of prejudice could overrule an untimely information.

6. Finally, to the extent Aderemi is correct that litigants need guidance on the issues presented in this case, this Court’s intervention is unnecessary because the court of appeals’ decision is published, providing the necessary guidance. Again, Aderemi seeks little more than error correction because he is unhappy with the court of appeals’ decision, but that is not a sufficient reason for this Court to grant review of a case. *See* Wis. Stat. § 809.62(1r). This Court should therefore decline his petition for review.

Dated this 20th day of March 2023.

Respectfully submitted,

JOSHUA L. KAUL
Attorney General of Wisconsin

Handwritten signature of John A. Blimling in black ink, with the number #1099788 written to the right.

JOHN A. BLIMLING
Assistant Attorney General
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LISA E.F. KUMFORD
FAR
JAE

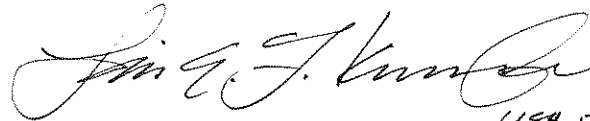
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FORM AND LENGTH CERTIFICATION

I hereby certify that this response conforms to the rules contained in Wis. Stat. §§ (Rules) 809.19(8)(b), (bm) and 809.62(4) for a response produced with a proportional serif font. The length of this petition or response is 614 words.

Dated this 20th day of March 2023.

 #1099788
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 Assistant Attorney General
 USA E. F. KUMFER
 FOR JAB

CERTIFICATE OF COMPLIANCE WITH WIS. STAT. §§ (RULES) 809.19(12) and 809.62(4)(b) (2019-20)

I hereby certify that:


I have submitted an electronic copy of this response, excluding the appendix, if any, which complies with the requirements of Wis. Stat. §§ (Rules) 809.19(12) and 809.62(4)(b) (2019-20).

I further certify that:

This electronic response is identical in content and format to the printed form of the brief filed as of this date.

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

Dated this 20th day of March 2023.

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