

FILED
03-29-2024
CLERK OF WISCONSIN
SUPREME COURT

IN THE SUPREME COURT
FOR THE STATE OF WISCONSIN

Appeal No. 2022AP263-CR

STATE OF WISCONSIN,
Plaintiff-Respondent-Respondent,

v.

ROBERT E. HAMMERSLEY,
Defendant-Appellant-Petitioner

ON REVIEW OF AN ORDER
ENTERED IN THE COURT OF APPEALS OF WISCONSIN, DISTRICT III,
AFFIRMING ORDERS OF THE CIRCUIT COURT FOR BROWN COUNTY,
THE HON. BEAU LIEGEOIS, PRESIDING

STATEMENT IN SUPPORT OF PETITION FOR REVIEW

Robert E. Hammersley
Defendant-Appellant-
Petitioner *Pro Se*

309 Bayside Road
Little Suamico, WI 54141

STATEMENT OF ISSUES FOR REVIEW

- 1) Is a party in the Court of Appeals required to independently submit documents relevant to the appeal as part of the Record when said documents are included in the Appendix to the party's brief?

This issue was not presented in the circuit court or Court of Appeals, as the issue was created by the ruling of the Court of Appeals in this matter.

- 2) Were petitioner's claims in the circuit court procedurally barred?

This issue was presented in the briefs to the Court of Appeals. The circuit court deemed petitioner's claims procedurally barred as previously litigated.

TABLE OF CONTENTS

STATEMENT OF ISSUES FOR REVIEW	i
TABLE OF CONTENTS	ii
STATEMENT OF CRITERIA FOR REVIEW	1
STATEMENT OF THE CASE	2
ARGUMENT IN SUPPORT OF REVIEW	3
I. REVIEW IS WARRANTED ON THE QUESTION WHETHER A PARTY IN THE COURT OF APPEALS IS REQUIRED TO INDEPENDENTLY SUBMIT DOCUMENTS RELEVANT TO THAT APPEAL AS PART OF THE RECORD WHEN SAID DOCUMENTS ARE INCLUDED IN THE APPENDIX TO THE PARTY'S BRIEF.	3
II. REVIEW IS WARRANTED ON THE QUESTION WHETHER PETITIONER'S CLAIMS WERE PROCEDURALLY BARRED IN THE CIRCUIT COURT.	4
CONCLUSION	5
FORM AND LENGTH CERTIFICATION	5
CERTIFICATION OF APPENDIX	6
APPENDIX	Separate

IN THE SUPREME COURT
OF THE STATE OF WISCONSIN

Appeal No. 2022AP263-CR

STATE OF WISCONSIN,
Plaintiff-Respondent-Respondent,

v.

ROBERT E. HAMMERSLEY,
Defendant-Appellant-Petitioner

ON REVIEW OF AN ORDER
ENTERED IN THE COURT OF APPEALS OF WISCONSIN, DISTRICT III,
AFFIRMING ORDERS OF THE CIRCUIT COURT FOR BROWN COUNTY,
THE HON. BEAU LIEGEOIS, PRESIDING

STATEMENT IN SUPPORT OF PETITION FOR REVIEW

COMES NOW the Defendant-Appellant-Petitioner, Robert E. Hammersley, proceeding *pro se* herein, and hereby respectfully submits his Statement in Support of Petition for Review, pursuant to the Order of the Court dated February 28, 2024.

STATEMENT OF CRITERIA FOR REVIEW

Both of the issues presented herein involve the state and federal constitutional right to due process of law, particularly the rights of *pro se* litigants. These issues

therefore satisfy the criteria for review under Wis. Stat. §809.62(1r)(a) and warrant the Court's attention.

The issues presented in the instant matter are also novel question of law, the resolution of which by the Court will provide needed guidance to the lower courts and litigants alike. These issues therefore also satisfy the criteria for review under Wis. Stat. §809.62(1r)(c)2.

STATEMENT OF THE CASE

The instant appeal challenges the Order of the Brown County Circuit Court, the Hon. Beau Liegeois presiding, in which that Court denied petitioner's motions for a John Doe hearing (Appx.:110-~~111~~) and the Order denying reconsideration of that Order (Appx.:~~112-113~~), and the Circuit Court's failure to take action on petitioner's *coram nobis* petition. The Court of Appeals held that the merits of petitioner's claims below were procedurally barred (Appx.:102 ¶1), and that petitioner had failed to supply the Court with documents necessary for consideration of his claims (Appx.:103 fn.4). That Court also imposed sanctions against petitioner for "abusing the appellate process" (Appx.:108-09 ¶¶ 15-16).

The Court of Appeals adequately set forth the facts of the case in its Order (Appx.:102-05 ¶¶2-6).

ARGUMENT IN SUPPORT OF REVIEW

- I. REVIEW IS WARRANTED ON THE QUESTION WHETHER A PARTY IN THE COURT OF APPEALS IS REQUIRED TO INDEPENDENTLY SUBMIT DOCUMENTS RELEVANT TO THAT APPEAL AS PART OF THE RECORD WHEN SAID DOCUMENTS ARE INCLUDED IN THE APPENDIX TO THE PARTY'S BRIEF.

In discussing the procedural history of the instant matter, the Court of Appeals stated that

Hammersley has not provided this court with his original John Doe petition or the 2013 order denying his petition, [...]. We note that “[i]t is the appellant’s responsibility to ensure completion of the appellate record and ‘when an appellate record is incomplete in connection with an issue raised by the appellant, we must assume that the missing material supports the ... court’s ruling.’” *State v. McAttee*, 2001 WI App 262, ¶5, n.1, 248 Wis.2d 865, 637 N.W.2d 774 (citation omitted).

(Appx.:103 n.4). While Hammersley acknowledges this rule of appellate procedure, he submits that he did, in fact, provide the Court of Appeals with the noted documents, in his Appendix to his brief-in-chief. Given his *pro se* status in the relevant previous matters and the instant appeal, Hammersley submits that this inclusion of the documents in his Appendix should suffice to satisfy the spirit, if not the letter, of the rule quoted in *McAttee*.

It is beyond dispute that *pro se* filings are to be liberally construed, in accordance with the right of all litigants to due process of law under the state and federal constitutions. *Haines v. Kerner*, 404 U.S. 519, 92 S.Ct. 594 (1972). Hammersley submits that since he did, in fact, submit the documents mentioned by the Court of Appeals in his Appendix, that Court’s literal adherence to the rule cited in *McAttee* put form over substance and violated his due process rights. Wis. Stat. §809.62(1r)(a). Petitioner has not found any case decided by this Court that addresses this precise issue, rendering it

ripe for decision by the Court to provide guidance to the lower courts and litigants alike.

Wis. Stat. §809.62(1r)(c)3.

II. REVIEW IS WARRANTED ON THE QUESTION WHETHER PETITIONER'S CLAIMS WERE PROCEDURALLY BARRED IN THE CIRCUIT COURT.

The instant appeal involves the denial of a motion by a *pro se* litigant for a John Doe investigation by the circuit court (Appx.:110-____), the denial of reconsideration of that denial (Appx.:____), and the circuit court's failure to address a *pro se* litigant's petition for *coram nobis*. The circuit court and Court of Appeals found petitioner's claims to be "procedurally barred" (Appx.:102 ¶1). Petitioner submits that he has not found any other caselaw holding the procedural bar rules to John Doe requests or *coram nobis* petitions. This issue therefore satisfies the criteria for review under Wis. Stat. §§ 809.62(1r)(c)2 and 3.

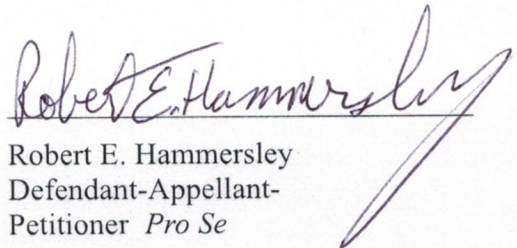
Hammersley submits that the liberal construction doctrine concerning the filings of *pro se* litigants requires the lower courts to find a way to address the issues presented on their merits, rather than apply technical or procedural rules to bar such consideration. This issue clearly implicates Hammersley's right to due process of law, satisfying the criteria for review under Wis. Stat. §809.62(1r)(a). Review is warranted on this issue.

CONCLUSION

WHEREFORE, for the reasons set forth herein, the defendant-appellant-petitioner respectfully prays that the Court will grant his Petition for Review in the above-captioned matter, granting such relief as the Court deems just and equitable at the conclusion thereof.

DATED this 29th day of March, 2024.

Respectfully submitted,

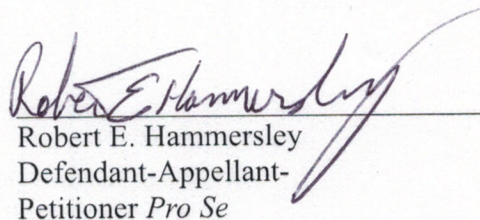


Robert E. Hammersley
Defendant-Appellant-
Petitioner *Pro Se*

309 Bayside Road
Little Suamico, WI 54141

FORM AND LENGTH CERTIFICATION

I hereby certify that this Statement in Support of Petition for Review conforms to the rules contained in Wis. Stat. §§ 809.19(8)(b) and 809.62(2) and (4). The length of this Statement in Support is 5 pages.



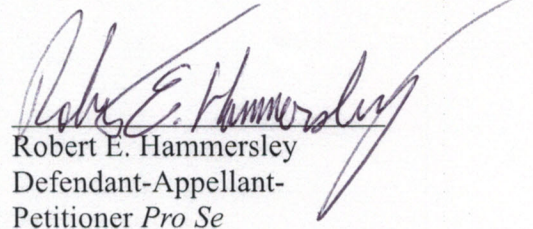
Robert E. Hammersley
Defendant-Appellant-
Petitioner *Pro Se*

CERTIFICATION OF APPENDIX

I hereby certify that filed with this brief is an appendix that complies with Wis. Stat. §809.12(2)(a) and that contains, at a minimum: (1) a table of contents; (2) the findings or opinion of the circuit court; (3) a copy of any unpublished opinion cited under Wis. Stat. §809.23(3)(a) or (b); and (4) portions of the record essential to an understanding of the issues raised, including oral or written rulings or decisions showing the circuit court's reasoning regarding those issues.

I further certify that if this appeal is taken from a circuit court order or judgment entered in a judicial review of an administrative decision, the appendix contains the findings of fact and conclusions of law, if any, and final decision of the administrative agency.

I further certify that if the record is required by law to be confidential, the portions of the record included in the appendix are reproduced using one or more initials or other appropriate pseudonym or designation instead of full names of persons, specifically including juveniles and parents of juveniles, with a notation that the portions of the record have been so reproduced to preserve confidentiality and with appropriate references to the record.


Robert E. Hammersley
Defendant-Appellant-
Petitioner *Pro Se*

