

FILED
12-05-2022
CLERK OF WISCONSIN
COURT OF APPEALS

**STATE OF WISCONSIN
COURT OF APPEALS
DISTRICT II**

**Appeal No. 2022 AP 000941
Washington County Circuit Court Case Nos. 2022TR000086**

WASHINGTON COUNTY,

Plaintiff-Respondent,

v.

JUSTIN DAVID DETTMERING,

Defendant-Appellant.

**AN APPEAL FROM THE JUDGEMENT OF
CONVICTION AND THE DECISION OF THE TRIAL
COURT DENYING MR. DETTMERING'S MOTION FOR
A JURY TRIAL, IN WASHINGTON COUNTY, THE
HONORABLE JAMES K. MUEHLBAUER, JUDGE,
PRESIDING**

**THE REPLY BRIEF OF THE DEFENDANT-APPELLANT
JUSTIN DAVID DETTMERING**

**By: Walter A. Piel, Jr.
Attorney for the Defendant-Appellant
State Bar No. 01023997**

**Piel Law Office
11414 W. Park Place
Suite K-202
Milwaukee, WI 53224
(414) 617-0088 (920) 390-2088 (FAX)**

TABLE OF CONTENTS

	<u>Page No.</u>
TABLE OF CONTENTS.....	2
TABLE OF AUTHORITIES	3
ARGUMENT	4
CONCLUSION	5
FORM AND LENGTH CERTIFICATION	7
CERTIFICATION OF COMPLIANCE WITH RULE 809.19(12).....	8

TABLE OF AUTHORITIES**Page No.****CASES****Wisconsin Court of Appeals**

<i>City of Madison v. Donohoo</i> , 118 Wis. 646, 338 N.W.2d 530 (1984).	4-5
---	-----

Wisconsin Statutes

Wis. Stat. §345.34	4-5
------------------------------	-----

ARGUMENT

The County argues because the defendant was not required to appear at the date listed on the citation, that this somehow negates the burden of advising the defendant of his right to a jury trial. The County points to *City of Madison v. Donohoo*, 118 Wis.2d 646, 348 N.W.2d 170 (1984) to support their argument. It does not.

In *Donohoo*, the defendant appeared at the initial appearance and requested a continuance. The Court Commissioner entered a not guilty plea on behalf of Mr. Donohoo. Mr. Donohoo subsequently, retained counsel. Counsel requested a jury trial in writing. However, the request was made more than 10 days after the defendant's first appearance. The *Donohoo* Court found the Court Commissioner did not have the authority to enter a not guilty plea on the defendant's behalf, and thus found counsel's request for a jury trial was timely.

Contrary to the County's contention, there is nothing in either *Donohoo* or Wis. Stat. §345.34(1) differentiating between a mandatory and voluntary appearance. Wis. Stat. §345.34(1) is clear. When a defendant appears in response to a citation either

voluntarily or mandatorily, "the defendant shall be informed that he is entitled to a jury trial."

Furthermore, contrary to the County's contention otherwise, Wis. Stat. §345.34(3) is inapposite, it applies only when the defendant enters a not guilty plea by mail. This is not the case herein. Mr. Dettmering appeared at the courthouse in response to and on the date listed on the citation. Clearly, by appearing in response to the citation, Mr. Dettmering did not intend to respond to the citation by way of letter addressed to the Court. Thus, Wis. Stat. §345.34(3) does not apply, and the County's argument fails for this reason.

Here, the citation issued to Mr. Dettmering contained an appearance date of February 3, 2022. The citation listed the Washington County courthouse as the place for the appearance. Mr. Dettmering went to the courthouse, responding to the citation, and was directed to meet with the District Attorney's office. At no point did anyone advise Mr. Dettmering of his right to a jury trial. Rather, the District Attorney had Mr. Dettmering sign a form advising the Court that the matter was not resolved and entering a not guilty plea on Mr. Dettmering's behalf.

Even though Mr. Dettmering appeared in response to the citation, the County argues there is no requirement that he be advised of his right to demand a jury trial. The County pulled the rug out from under Mr. Dettmering. They had him sign a document which they claim started the 10-day time limit for a jury demand, but did not advise Mr. Dettmering of said right. This clearly is contrary to the provisions of Wis. Stat. §343.34.

CONCLUSION

Based on the above, Mr. Dettmering is entitled to a jury trial. The decision of the Court should be vacated and Mr. Dettmering should be granted a jury trial.

Dated this 5th day of December, 2022.

Respectfully Submitted

Piel Law Office

Electronically Signed by Walter A. Piel, Jr.

Walter A Piel, Jr.

Attorney for the Defendant-Appellant

State Bar No. 01023997

POST OFFICE ADDRESS:

PIEL LAW OFFICE

11414 W. Park Place Suite 202

Milwaukee, WI 53224

(414) 617-0088

(920) 390-2088 (fax)

FORM AND LENGTH CERTIFICATION

The undersigned hereby certify that this brief and appendix conform to the rules contained in secs. 809.19(6) and 809.19(8) (b) and (c). This brief has been produced with a proportional serif font. The length of this brief is 8 pages. The word count is 1109.

Dated this 5th day of December, 2022.

Respectfully Submitted

Piel Law Office

Electronically Signed by Walter A. Piel, Jr.
Walter A Piel, Jr.
Attorney for the Defendant-Appellant
State Bar No. 01023997

POST OFFICE ADDRESS:

PIEL LAW OFFICE
11414 W. Park Place Suite 202
Milwaukee, WI 53224
(414) 617-0088
(920) 390-2088 (fax)

**CERTIFICATION OF COMPLIANCE WITH 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 s. 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 certificate 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 September, 2022.

Respectfully submitted,

Piel Law Office

Electronically Signed by Walter A. Piel, Jr.
Walter A. Piel, Jr.
Attorney for the Defendant-Appellant
State Bar No. 01023997