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CLERK OF WISCONSIN
COURT OF APPEALS

STATE OF WISCONSIN
COURT OF APPEALS

DISTRICT: IV

Case No. 2025AP000300

WAUSHARA COUNTY,

Plaintiff-Respondent,

v.

BEATRICE BRUNING,

Defendant- Appellant.

BRIEF OF PETITIONER-APPELLANT
BEATRICE BRUNING, pro se

On Appeal from a Order/Decision of the Waushara County
Circuit Court, Case No. 2024TR1316,
The Honorable Scott Blader, Presiding

BEATRICE BRUNING

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Petitioner-Appellant

TABLE OF CONTENTS

| | Page |
|--|-----------|
| ISSUES PRESENTED | 3 |
| STATEMENT ON ORAL ARGUMENT | 3 |
| STATEMENT ON PUBLICATION | 3 |
| STATEMENT OF CASE AND FACTS | 3,4,5 |
| ARGUMENT..... | 5,6,7,8,9 |
| I. Jurisdictional Errors | |
| II. Timely Filing | |
| III. Evidentiary Issues | |
| IV. Equitable Estoppel | |
| V. Pro Se Litigant Considerations | |
| VI. Fundamental Procedural Errors | |
| VII. Summary of Reconsideration | |
| CONCLUSION | 10 |
| CERTIFICATION AS TO FORM/LENGTH | 11 |
| CERTIFICATE OF COMPLIANCE WITH RULE..... | 11 |
| 809.19(12) | |

TABLE OF AUTHORITIESCases

| | |
|--|------|
| <i>State v. Trongeau (1986),</i> | 5, 6 |
| <i>Holland v. Florida (2010),</i> | 7 |
| <i>Heckler v. Community Health Services (1984),</i> | 8 |
| <i>Haines v. Kerner (1971),</i> | 9 |
| <i>Erickson v. Pardus (2007),</i> | 9 |
| <i>Johnson v. Zerbst (1938),</i> 158 Wis. 2d 690, | 9 |

Wisconsin Statutes

| | |
|---------|---|
| §757.69 | 5 |
|---------|---|

ISSUES PRESENTED

1. Was it a violation of Wisconsin Statutes Section 757.69 for a commissioner to preside over my contested trial?
2. Did the circuit court err in denying my motion for reconsideration as untimely despite procedural errors that contributed to the delay?
3. Do equitable estoppel and considerations for pro se litigants warrant a de novo review of my case?
4. Did the commissioner's verdict lack authority to constitute a final order under Wisconsin law?
5. Was the lack of clear and convincing evidence sufficient to support a conviction?

STATEMENT ON ORAL ARGUMENT

Appellant Beatrice Bruning, Pro Se, does not request oral argument.

STATEMENT ON PUBLICATION

I do not feel an opinion needs to be published for my case.

STATEMENT OF CASE AND FACTS

On June 24, 2024, I was issued a citation for failure to keep vehicle under control and operating left of center, and I pleaded not guilty on August 12, 2024, to contest the matter. A pre-trial conference was held with prosecutor Matthew R. Leusink on September 4, 2024, followed by a status conference with Judge Scott Blader on September 17, 2024.

Judge Blader subsequently scheduled my trial for October 22, 2024. However, the trial was presided over by Commissioner Joan Olson, despite my not guilty plea. This violated Wisconsin Statutes Section 757.69, which prohibits commissioners from overseeing contested trials. Commissioner Olson convicted me based on ambiguous and conjectural evidence.

While I was contesting this conviction, my driver's license was suspended on January 8, 2025, for nonpayment of the ticket. At the time, I believed filing an appeal created an automatic stay of enforcement, which led to the nonpayment. Upon discovering this was not the case, I filed a motion on January 13, 2025, for a stay of the suspension. This motion was denied by Judge Scott Blader, the same judge who had assigned Commissioner Olson to oversee my trial. To reinstate my license, I paid the ticket in full on January 14, 2025, under duress to avoid further repercussions.

Unaware of the jurisdictional limitations of commissioners, I filed an appeal directly with the appellate court in December 2024. On January 27, 2025, the appellate court dismissed my appeal, citing lack of jurisdiction since my trial had been conducted by a commissioner rather than a judge. This dismissal revealed, for the first time, the procedural error regarding the commissioner's authority.

Subsequently, I filed a motion for reconsideration of my conviction in circuit court on February 3, 2025. Judge Blader, who had initially assigned the commissioner to oversee my trial, heard the motion. While he referred to the reconsideration as a de novo review, he denied it on the grounds of untimeliness, failing to consider the procedural errors that delayed my ability to seek timely relief.

Statement of Facts

1. On June 24, 2024, my vehicle was not damaged in the incident, and I was able to drive away. No citation was issued for an accident.
2. The officer followed me from Mt. Morris to Wautoma to ensure payment to a tow truck driver, as the driver could not accept my credit card at the scene. This action felt beyond the scope of duty.
3. During the trial, the officer admitted to guessing my speed, relied on notes that were not entered into evidence, and referenced photographs that were not presented to the court.
4. The lack of corroborating evidence and reliance on conjecture formed the basis of the conviction, despite insufficient proof to meet the burden of clear and convincing evidence.

ARGUMENT

I. Jurisdictional Errors

The trial conducted by Commissioner Olson violated the Wisconsin Statutes Section 757.69, which prohibits commissioners from presiding over contested trials where a defendant has entered a not guilty plea. This statutory limitation exists because a judicial court commissioner does not constitute a "court" in the legal sense.

The Wisconsin Supreme Court clarified this distinction in **State v. Trongeau (1986)**, which stated: "*A judicial*

court commissioner, hearing assigned matters, does not constitute a court, and the legislature, having in mind the uninterrupted uniform interpretation of the word 'court,' which reaches back in our history for well over a hundred years, could not have intended, without expressly saying so, to include a judicial court commissioner under the general rubric of 'court.' [Emphasis added.]"

This decision underscores that commissioners do not possess the same judicial authority as a court. The legislature has consistently maintained this distinction, and any deviation from it requires explicit statutory authorization. Therefore, having a commissioner preside over my trial, despite my not guilty plea, was a fundamental procedural error that invalidated the trial's jurisdiction.

Precedents such as **State v. Trongeau (1986)** affirm that trials conducted without proper judicial authority are procedurally flawed and must be remedied.

II. Lack of Final Order

Since a judicial court commissioner does not constitute a "court," as established in **State v. Trongeau (1986)**, the commissioner's verdict cannot qualify as a final order under Wisconsin law. A final order requires authority from a judicial entity vested with statutory jurisdiction, which was lacking in this case.

The procedural error of assigning a commissioner to oversee my contested trial directly invalidates the finality of the decision. Without proper judicial authority, the ruling by Commissioner Olson fails to meet the standard of a binding judicial determination. This reinforces my request for a de novo review to correct the procedural violations.

III. Timely Filing

The denial of my motion for reconsideration based on untimeliness fails to consider the procedural hurdles that delayed my filings. The appellate court's dismissal of my December 2024 appeal revealed the jurisdictional limitations of commissioners for the first time, highlighting a significant procedural irregularity in my case.

Additionally, the suspension of my driver's license on January 8, 2025, for nonpayment of the ticket introduced another layer of procedural complexity. At the time, I reasonably believed that filing an appeal created an automatic stay of enforcement, which contributed to my nonpayment. Upon realizing this misunderstanding, I promptly filed a motion for a stay of suspension on January 13, 2025, which was denied by Judge Scott Blader. To avoid further repercussions, I acted swiftly and paid the ticket in full on January 14, 2025, to reinstate my license.

The standard for equitable tolling, as articulated in **Holland v. Florida (2010)**, is "reasonable diligence," not "maximum feasible diligence." My actions demonstrate that I acted with the care and speed expected of a reasonable individual facing significant procedural challenges. I addressed each issue promptly as I became aware of it, including filing my motion for reconsideration as soon as I understood the implications of the commissioner's lack of authority over my trial.

The procedural irregularities—such as the improper assignment of a commissioner, the confusion surrounding the stay of enforcement, and the subsequent dismissal of my appeal—constitute sufficient context for the application of equitable tolling. These circumstances

prevented a timely filing and justifies the appellate court's review to ensure fairness and justice.

IV. Evidentiary Issues

The conviction was unsupported by clear and convincing evidence:

- The officer admitted to guessing my speed.
- Notes were referenced during trial but not entered into evidence.
- Photographs mentioned by the officer were not presented.
- The findings relied on speculation and conjecture, which fail to meet the evidentiary burden.

V. Equitable Estoppel

I relied on the court's assignment of Commissioner Olson, believing this process was valid. This reliance caused me to file an appeal directly with the appellate court, which was dismissed for non-jurisdiction.

- **Heckler v. Community Health Services (1984)** supports equitable estoppel to prevent detriment caused by misleading actions.

VI. Pro Se Litigant Considerations

As a pro se litigant, I lacked the legal knowledge to identify the jurisdictional error at the time of my trial. Courts must liberally construe filings from pro se litigants and ensure fairness.

- **Haines v. Kerner (1971)** and **Erickson v. Pardus (2007)** affirm the need for leniency in procedural matters involving pro se litigants.

VII. Fundamental Procedural Errors

Errors affecting fundamental rights, such as jurisdictional authority and evidentiary insufficiencies, undermine the validity of a trial.

- **Johnson v. Zerbst (1938)** supports correcting procedural violations to ensure justice.

VII. Summary of Reconsideration Motion

In my motion for reconsideration, I presented the following arguments:

1. The trial violated Wisconsin Statutes Section 757.69, as a commissioner presided over my contested matter.
2. I raised the defense of the **sudden emergency doctrine**, citing unforeseen circumstances that required immediate response.
3. The conviction was based on ambiguous and conjectural evidence, including the officer's testimony, guessed speed, and unsubmitted notes and photographs.
4. Procedural irregularities, including the jurisdictional error regarding the commissioner, delayed my ability to file timely.
5. Judge Scott Blader, who had assigned the commissioner to my trial, denied reconsideration on grounds of untimeliness, despite his earlier role in the procedural errors.

CONCLUSION

In conclusion, I respectfully request that the appellate court grant a de novo review of my case to address the procedural irregularities, jurisdictional errors, evidentiary insufficiencies, and other issues that prevented a fair resolution. The principles of jurisdictional authority, equitable tolling, equitable estoppel, pro se litigant considerations, and fundamental procedural errors all support my request for relief.

Dated this 12th day of April 2025.

Respectfully submitted,
Electronically signed by
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Petitioner-Appellant

CERTIFICATION AS TO FORM/LENGTH

I hereby certify that this brief conforms to the rules contained in § 809.19(8)(b) and (c) for a brief produced with a proportional serif font. The length of this brief is 2,060 words.

**CERTIFICATE 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 § 809.19(12). I further certify that this electronic brief is identical in content and format to the printed form of the brief filed on or after this date.

A copy of this certificate has been served electronically along with this brief filed with the court and served on all opposing parties.

Dated this 12th day of April, 2025. *SDJ*

Signed:

Electronically signed by Beatrice Bruning
BEATRICE BRUNING pro se

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