

**FILED**  
**06-24-2025**  
**CLERK OF WISCONSIN**  
**COURT OF APPEALS**

STATE OF WISCONSIN

C O U R T O F A P P E A L S

DISTRICT IV

Case No. 2025AP000300

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BEATRICE BRUNING,

Defendant-Appellant,

v.

WAUSHARA COUNTY,

Plaintiff-Respondent.

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REPLY BRIEF-APPELLANT  
BEATRICE BRUNING

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On Appeal from a Order/Decision of the Waushara County  
Circuit Court, Case No. 2024TR001316,  
The Honorable Scott Blader, Presiding

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BEATRICE BRUNING

N5844 Apache Dr.  
Wild Rose, WI 54984  
(970)361-4756  
Beabruning@yahoo.com

Petitioner-Appellant

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### ISSUES PRESENTED

1. Whether the procedural error in assigning a court commissioner warrants vacating the conviction rather than remanding the case for retrial.
2. Whether the prosecution's evidence meets the required "clear and convincing" standard, given the officer's speculative testimony and lack of physical proof.
3. Whether Appellant's license suspension, demerit points, and forfeiture should be reversed due to the invalid conviction.

### STATEMENT ON ORAL ARGUMENT

Appellant does not request oral argument, as the legal issues presented can be addressed through written submissions.

### STATEMENT ON PUBLICATION

Appellant does not seek publication decisions, as the case involves the application of established legal principles rather than novel issues of law.

### STATEMENT OF CASE AND FACTS

Appellant Bruning, was issued **two** citations June 24, 2024. The citing officer, **Deputy Nelson**, was not trained in accident reconstruction, **did not use radar or pacing to estimate speed**, and admitted in court that his speed determination was **a guess**. Additionally, while Deputy Nelson claimed to have taken photographs of skid marks, **he did not**

**present them in court**, meaning the evidence was not verified under examination.

The initial trial was held before a **court commissioner** despite **Wisconsin Statute 757.69** limiting a commissioner's authority in **contested traffic and ordinance trials**. The County **concedes** that commissioner's role was improper, admitting that the circuit court erred in **failing to grant a de novo review**. However, the circuit court **time-barred Appellant's request** instead of addressing the procedural error. The County further **concedes** that **neither of the statutes cited by the court specify a timeline** for requesting de novo review, confirming that the court's justification for rejecting Appellant's motion lacked statutory support.

As a result of conviction, Appellant's **driver's license was suspended**, and **demerit points were added to her record**. The circuit court denied Bruning's request for a **stay of the suspension**, forcing Bruning to **pay forfeiture fees to reinstate her license**. Given the County's admission that **the trial proceedings were flawed**, Bruning seeks **vacation of the conviction and removal of the suspension, points, and forfeiture penalties**.

## ARGUMENT

### I. **Procedural Errors Require Vacating the Conviction, not a Retrial**

The County argues that the remedy for the procedural error is **a remand for a new trial** before the circuit court. However, Wisconsin courts recognize that when fundamental errors invalidate a trial, the proper remedy is **dismissal, not retrial**.

- **Wisconsin Statute 757.69(1)** limits a commissioner's authority in contested traffic and ordinance cases. Since the commissioner lacked jurisdiction, the initial trial was **legally defected**, and its outcome **cannot stand**.
- **Wisconsin appellate rulings** establish that procedural errors undermining a trial's legitimacy warrant **dismissal**, rather than simply restarting the process.
- The County **fails to provide the authorities requiring** a new trial rather than vacating conviction when a case is improperly adjudicated.

A remand does **not correct** the violation- it merely forces Bruning through **another round of litigation** despite multiple opportunities for the County to present its case.

## **II. The Prosecution's Evidence Fails to Meet the "Clear and Convincing" Standard**

The County asserts that the evidence presented in the original hearing was sufficient, but the record reflects **speculative testimony** rather than actual proof.

- The deputy **admitted in court that he was "guessing"** regarding Bruning's speed, and **did not use radar, pacing, or accident reconstruction training**. Wisconsin courts have ruled that speculative testimony does **not meet evidentiary testimony standards** (*Wester v. Bruggink*, 204 Wis.2d 169).

- The deputy referenced **skid mark photos**, yet **failed to present them in court**, meaning the evidence was **never verified** under examination.
- Wisconsin **Rules of Evidence (Wis.Stat.904.02)** require that testimony be based on **reliable principles**, meaning an **officer's estimation without supporting proof is not sufficient to establish guilt**.

Since the County **admits procedural errors** yet fails to provide **substantive proof beyond speculation**, the conviction **cannot stand**, regardless of their concession.

### **III. Mootness Argument Is Unfounded-Bruning's Claims Must Be Addressed**

The County asserts that Bruning's arguments on the sufficiency of evidence are **moot** due to their concession. However, Wisconsin law holds that issues are **not moot** if they have **practical consequences (State ex rel. Milwaukee County v. Circuit Court, 15 Wis.2d 372)**.

- Bruning's conviction led to a **license suspension, points, and financial forfeiture**, which **continue to have real- world impact**.
- A procedural error alone does not **negate the need for evidentiary review** -the burden remains on the prosecution to **prove guilt beyond speculation**.
- The County **fails to cite authority supporting their mootness claim**, while Wisconsin case law consistently

holds that penalties stemming from invalid convictions **must be reversed.**

Since the penalties imposed on Bruning were a **direct result of improper proceedings**, they **must be vacated along with the conviction.**

#### **IV. Bruning's License Suspension, Demerit Points, and Forfeiture Must Be Reversed**

Due to the circuit court's refusal to grant a **stay**, Bruning was forced to pay forfeiture fees to reinstate her license, despite actively appealing the case. The County's concession confirms that the initial trial was **procedurally invalid**, meaning the consequences must also be addressed.

- **Wisconsin's traffic violation process** recognizes that points and suspensions are tied to **convictions**, meaning that if a conviction is vacated, the associated penalties **must also be removed.**
- Wisconsin courts acknowledge that **financial penalties imposed under improper rulings** should be **refunded when a conviction is overturned** (*State v. McFarren*, 62 Wis.2d 37).

Given the County's **failure to justify the imposition of these penalties under an invalid ruling**, Bruning requests that all consequences be **vacated and corrected.**

#### **CONCLUSION**



The County has conceded that **the circuit court committed errors**, yet its proposed remedy of **remanding for another trial** is inappropriate given the flawed nature of the original proceedings. Additionally, the penalties imposed on Bruning- **license suspension, demerit points, and forfeiture**- must be corrected as they stemmed from an invalid conviction.

Bruning respectfully requests that the Court:

- **Vacate the conviction rather than remanding the case.**
- **Remove the suspension and demerit points from Bruning's driving record.**
- **Order reimbursement of the forfeiture paid to reinstate Bruning's license.**

These corrections are necessary to uphold procedural fairness and ensure that an improper process does not continue to unfairly burden Bruning.

Dated this 24th day of June 2025.

Respectfully submitted,  
Electronically signed by Beatrice Bruning

Beatrice Bruning  
N5844 Apache Dr.  
Wild Rose, WI 54984  
(970) 361-4756  
E-mail: bearuning@yahoo.com

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 1,316 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).

A copy of this certificate has been served electronically by the court and served on all opposing parties.

Dated this 24 day of June 2025.

Electronically signed by Beatrice Bruning

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BEATRICE BRUNING

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Wild Rose, WI 54984  
(970) 361-4756  
beabruning@yahoo.com  
Petitioner-Appellant