

STATE OF WISCONSIN
COURT OF APPEALS
DISTRICT 2

Case No. 2016 AP 000836

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AUG 17 2016
CLERK OF COURT OF APPEALS
OF WISCONSIN

LEE KLEINHANS

Petitioner-Appellant,

v.

SHEBOYGAN COUNTY

Respondent-Respondent.

BRIEF OF PETITIONER-APPELLANT
LEE KLEINHANS

Decision of the Sheboygan County Circuit Court, Case No.
2015TR005218

The Honorable Rebecca L. Persick, Presiding

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ISSUES PRESENTED

1. Did the trial court err when it did not mention the MUTDC manual used by the Wisconsin Highway Department to properly display road sign.

Answered by the trial court: In the transcript page 32 paragraph 22 to 25, page 33 paragraph 1 to 5.

2. Did the trial court err when it failed knowing the history of the 70 citations for that intersection from 7/30/2015 to 11/17/2015. pages

Answered by the trial court: In the transcript page 30 paragraph 16 to 20.

STATEMENT ON ORAL ARGUMENT

Petitioner-appellant requests oral argument because it would assist the court in deciding this case of first impression regarding the language of the law.

STATEMENT ON PUBLICATION

The opinion in the case should be published in the official reports. It will enunciate, for the first time in Wisconsin, a ruling to clarify the LANGUAGE used by the Wisconsin Highway Department MUTDC manual for the same reason as the brief argument. If the court feels an oral argument necessary the defendant would oblige.

STATEMENT OF THE CASE AND FACTS

Petitioner-appellant Lee Kleinhans research language from the Wisconsin Highway Department only showing 2 types of closures. Hard closure exhibit page 24 picture no one permitted to travel thru. Staggered closure exhibit page 25 picture according to MUTDC can be left open to the Highway Department's discretion. In this case stated by Sheboygan Highway Department this intersection was marked open to emergency vehicles, residents and businesses. According to their official site plan page 27 paragraph 5 general notes. On Friday Oct 30 2015 the defendant was traveling north bound on Hwy I-43 toward the Weeden Creek Apple Orchard for reason of picking up apple cider-apple wood for smoking salmon and to check out Weeden's Creek for salmon fishing. Also to check with construction workers on site at county trunk EE and county trunk A when the project would be completed being I had out of state clients coming for salmon run. Upon entering the ramp I came across a sign page showing county trunk A north detour. Knowing I was not going to cross county trunk A I proceeded to turn left go under I-43 then taking the west frontage road north to Weeden's Creek road. Waiting for a vehicle to pass which was a police car I proceeded west bound on Weeden Creek road where the police officer turned into a business I proceeded through the staggered barricades page 25. I traveled west to the roundabout in search of construction workers to find out when this job would be completed. Finding no workers on the job I continued west towards Weeden's Creek apple orchard and passing the last resident the officer stopped me. The officer then told me I was in violation when I passed the first road closed sign 80 yards back. I explained I was going to ask workers when the project was going to be completed and was going to a business just ahead. When the officer returned I was sited.

Argument

The Trial Court Erred When it made a decision without proper understanding of the MUTDC manual page and paragraph . The Wisconsin MUTDC manual states the size and the placement of highway road signs also sets precedence onto the Sheboygan County Highway Department placement of highway road signs and the responsibility of language used page 29 and paragraph 5. That language is to be understood by the municipal police department. The 70 citations from 4 ½ month period of time will prove preponderance proof that the reasonable motorist was being deceived by the lack of informative road signs page 30 and paragraph 7-19. The roads going to and from area business's shown page 29 were all marked road closed and those roads were county trunk EE and A and Weedens Creek Road. So there was no possible way to get thru to the business page 29 without passing by a road closed sign. The only detour sign was placed on the highway 43 off ramp for county trunk A north.

The language shown by the defendant in the transcript page 25 paragraph 22 is the same language the circuit courts agreed to page 29 paragraph 5. This language is identified by the general rules page 29 paragraph 5 of the highway departments MUTDC manual which is in the case of City of Madison vs. Jeffrey K. Crossfield. Appeal No. 2015AP800 page 17/18 paragraph 20. The language is all roads and streets in the work zones shall be kept accessible for emergency, business, residents page 29 paragraph 5.

CASES CITED

***CITY OF MADISON V JEFFREY K.
CROSSFIELD***

Appeal No.
2015AP800.....

**CONSTITUTIONAL PROVISIONS
AND STATUTES CITED**

Wisconsin Statutes

340.01(38):.....
349.065.....

OTHER AUTHORITIES CITED

WI App 49, 21,260 Wis.2d770, 659 N.W.2d
887.....

CERTIFICATION AS TO FORM/LENGTH

I certify that this brief meets the form and length requirements of Rule 809.19 (8)(b) and (c) in that it is: proportional serif font, minimum printing resolution of 200 dots per inch, 13 point body text, 11 point for quotes and footnotes, leading of minimum 2 points and maximum of 60 characters per line of body text. This brief length is 27 pages.

CERTIFICATE OF COMPLIANCE WITH RULE

809.19(12)

I certify that I have submitted an electronic copy of this brief, including the appendix 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 with the paper copies of this brief filed with the court and served on all opposing parties.

CONCLUSION

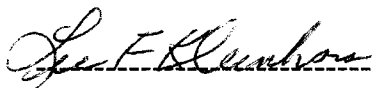
This court should render a decision that to whom is respectfully responsible in following the MUTDC manual and setting precedence to Wisconsin construction sign language for motorists to acknowledge and municipal police departments to enforce.

1. Reversal of Circuit Court decision
2. Reimbursement for the citation
- 3 Award damages

Dated this 9 day of August, 2016

Respectfully submitted,

Lee F. Kleinhans

A handwritten signature in cursive script, appearing to read "Lee F. Kleinhans", written over a horizontal dashed line.

Pro-se Petitioner-Appellant

CERTIFICATION AS TO APPENDIX

I hereby certify that filed with this brief, either as a separate document or as a part of this brief, is an appendix that complies with 809.19(2) (a) and that contains, at a minimum: (1) a table of contents; (2) the findings or opinion of the circuit court; and (3) portions of the record essential to an understanding of the issues raised, including oral or written rulings or decisions showing the circuit courts reasoning regarding those issues.

Dated this 9 day of August 2016

Signed *Law E. Kleinberg*

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1. Opinion of the circuit court transcript page 32 paragraph 22-25. Page 33 paragraph 1-2.

Page 29 of the actual notarized document of the Sheboygan Highway Department paragraph 5.

2. Circuit Courts opinion transcript page 33 paragraph 6-12. Official map dictates no closure paragraph 5 and page 29 also page 25 shows no such sign local traffic only.