[redacted]

WISCONSIN COURT OF APPEALS DISTRICT IV

IAN HUMPHREY,

Appellant, Petitioner

v.

Case No.: 2016AP966

County of Lafayette

Appellee, Respondent.

APPELLANT'S BRIEF

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STATEMENT ON ORAL ARGUMENT AND PUBLICATION

Because of the lack of transcripts, and an erroneous default judgment band-aided over the Trial to the Court, it is difficult to answer whether oral argument is necessary and if the decision should be published. As the actual challenge to the circumstance is that I gave notice of address change and the Administrative agency, and the agency failed in their responsibility, the case could set precedent, and should be published in that scenario. The issues have been litigated to the best of my ability, and so I don't see what more oral argument could provide, but as I've invested so much into the case, I would engage that circumstance were the opportunity offered.

Wherefore I leave it to the discretion of the Court of Appeals whether to hold oral argument, and whether or not to publish their decision.

STATEMENT OF THE CASE

On July 30, 2015, I was cited for driving while suspended, and having expired registration plates. Over the next year I battled with the Lafayette Circuit Court over issues of appearance, evidence, and entitlements. 2015TR1299 was challenged and litigated until the close of trial, ultimately being dismissed because the County had never had any evidence to support their allegations. 2015TR1300 was also defeated, yet converted into 2015TR1921, the case sourcing this appeal. There was a Court Trial on April 12 2016, where I was found guilty, for reasons I allege are erroneous, and was denied reconsideration when I raised those issues in the Trial Court. This case comes after having been denied a fee waiver for transcripts, with the Court of Appeals denying the request and the Supreme Court declining to review that decision.

This case should revolve around whether the legislature imposed a strict liability standard in 343.44, and what happens when someone adheres to that liability and the Administrative agency makes a mistake.

Instead, it is about basic issues like substantive due process entitlements, and Jury Trials. It is riddled with the conundrum of how to put the cart before the horse in obtaining a fee waiver for transcripts, proving arguably meritorious grounds with references to events that occurred at trial, without transcripts. It features a default judgment that clearly needs to be removed, as it has no legitimate basis and only serves to harm me in the future. Finally, it has a hollow echo of what the case should be about, written by me without the accompaniment of transcripts.

PROCEDURAL BACKGROUND

The formal complaint was filed on 12/14/2015 (Record 1). A not guilty plea was entered on 12/30/2015. A timely Jury Demand was made on 1/4/2016 (Record 2). A scheduling conference occurred on 1/19/2016 (Record 4, 5), where my Jury Demand was ruled as timely. A status conference occurred on 3/08/2016 where my proof of indigency was rejected, my request to waive fees for Jury Trial denied, and my offer to submit the form the Court demanded was rejected (Record 7, 8). A continuance was granted on 3/24/2016 (Record 10). A Trial to the Court occurred on 4/12/2016 (Record failed). A default judgment for non-appearance was entered on the same day as the Court Trial (Record 11). A timely notice of appeal was filed on 4/28/2016 (Record 13). A CV-410A form used to demonstrate indigency was filed on 4/28/2016 and mistaken as a petition for representation (Record 12). A request for fee waiver for transcripts was denied on 5/23/2016 (Record 22), and upheld by the Court of Appeals on 6/22/2017(2016AP1579). During this appeal the Circuit Court has circumvented the protections of 800.095(1)(a)5, suspended my license for 6 months, and again for another year, in excess of its' authority, which is the subject of a pending appeal.

STATEMENTS OF FACT

1. The Court never supplied me with a form that complied with Wisconsin Statute 814.29(1)(b) prior to denying my waiver of fees for Jury Trial.

2. The Court did not inform me of a strict requirement of that form until the day it was "too late".

3. I appeared on time and had a Trial on 4/12/2016.

4. The Statute I was prosecuted under has a history of legal challenges, resulting in the current law, which has continued to spawn litigatory challenges.

ARGUMENT

I. INTRODUCTION

The summary of this case is that it was rushed, biased, and errors of fact and law were made. I was denied a Jury Trial, with no opportunity to amend a simple procedural defect, which could have been done the day of the denial. I was then found guilty based on a conclusion of the Trial Judge, which was backed by nothing submitted by opposing counsel (or me, technically), and again denied the ability to cure the defect, this time by completely blowing of an objection with a hand waive and an utterance: "bah". After this, a default judgment was entered for non-appearance, when I had traveled so far and spent so much after being denied the ability to appear by telephone. This default judgment led to a perfunctory ruling on my motion to waive fees for the production of transcript, and the result of a current appeal with dubious value. There is a valid question of law, namely the extent of the power of the legislature to circumvent substantive due process, but that would require the Court of Appeals to review the transcripts.

II. I did not get the Jury Trial I was entitled to

I filed a timely notice of Jury demand with the Court. The Court received a bank statement from me (Appendix A), which indicated I was the recipient of means tested assistance (SSI). The Court never supplied me with the form it demanded in the proceedings prior to the 3/8/2016 status conference (Record 8), applied a strict interpretation of Wisconsin Statute 814.29(1)(b), and denied me the ability to cure the defect by completing and submitting the form that day. The Trial Court could readily ascertain that I was the recipient of means tested assistance, yet used his discretion to deny me a Jury Trial for what I believe are political perspective and financial

motives, resulting in another case of judicial activism. I appeared in the Court with ID, and could have had the document completed and notarized, yet the Court rejected this offer, opting instead to deny me a Jury Trial.

Transcripts would demonstrate here the underlying tone of the "due process" I received from the Lafayette Circuit Court. At the scheduling conference on 1/19/2016, the Trial Court struck down my Jury demand for case 2015TR1299, and stated that "unfortunately" my Jury demand was timely for 2015TR1921. The adjective was not lost on me; to be in this Trial Court and hear a vested interest in the outcome of procedural milestones voiced plainly by the adjudicator was the first warning sign that I was in for a ride on a rail-road going through kangaroo Court. I've done a fair amount of research on my Trial Judge, and apparently both he and Katherine Findley, the prosecuting attorney at trial, ran for the Circuit Court seat. Both were district attorneys, and I contend that the environment was clearly not one that was fair and impartial. I understand my appeal is not a place to attack the Trial Judge, however I feel it is my duty as a citizen of this Country to speak out against professional misconduct engaged in by public officials, and especially when it is relevant to issues I am litigating. The Trial Court wasn't just unreasonable about the statutory provisions of an indigency petition, there was more to it, shouldn't have been more to it, and something should be done about it.

III. A baseless default judgment was entered against me that materially effected me

On 4/12/2016 I appeared, after having my license suspended, and traveling over 400 miles via train and taxi, only to have a sham of a trial, and finally to have a default judgment entered against me for non-appearance(Record 11). Later, this default judgment resulted in the

perfunctory examination of my petition to waive fees for the production of transcripts. I have no idea, and no examples to que me into how the Court of Appeals will handle this contradiction in the record, which may be to my detriment. Finally, it serves to harm me in the future by manufacturing the appearance that I do not show up for court.

The Trial Court denied my motion for a fee waiver for the production of transcripts based on asinine conclusions of law, that I was not eligible for automatic reinstatement (a process by which individuals who prevail against an issue have their license restored without having to pay any fee) because I was not a Wisconsin resident at the time(Record 22). This ridiculous argument was not briefed on by the respondent. With no brief by the respondent, I should have easily obtained my fee waiver, but the examining Appeals Judge, decided that since there was a default judgment, I wasn't entitled to review. After acknowledging the trial with an errata sheet on 6/22/2017, the Appeals Judge used an all-inclusive statement to deny me the waiver without addressing the historically meritorious arguments I put forth (2016AP1579).

This entry of a default judgment exists now in the record submitted on appeal. This could impact future bail considerations, and should be vacated because it is in error.

IV. I will not receive a meaningful appeal unless the Court reviews transcripts

So far, I've had one issue decided where the Court of Appeals chose to give lip service to the notion that my issues were considered, with my allegations presumed truthful, and deemed meritless. This response came with no discussion or even a perfunctory refutation to my challenges to circumstances that have been historically litigated in Wisconsin before in: State v. Collova 79 Wis. 2d 473 (1977, and State v. Olson (1993) 175 Wis. 2d 628.

Without a record, this isn't a meaningful appeal - Griffin v. Illinois, 351 U.S. 12 (1956). That means I'll have had a sham of a trial, and a sham of an appeal.

V. The Attorney for the County failed to present clear and convincing evidence

At Trial, the Attorney for the County called the citing officer, and submitted a copy of my driving record (Record 7, Appendix B). The Attorney for the County submitted nothing demonstrating that I was served notice of the suspension that the citation sourced from. Instead, we are to trust that the Wisconsin Department of Transportation is flawless.

The Trial Court's disposal of this case inherently lent that kind of credibility to the Administrative Agency, which is inconsistent with the facts. The agents of the Wisconsin Department of Transportation appear prone to error: 1. The Trial Court found my testimony credible, that an agent of the Wisconsin Department of Transportation refused to update my address after receiving a form I filled out; 2. The basis for refusal was that the agent believed my license was suspended, and would not update my address until the fee was paid, when address changes are not a service that the agency can refuse due to unpaid fees; 3. The driving record that the Attorney for the County submitted indicates that on the alleged day of the interaction, my license was valid (Record 7, Appendix B Event: 7/31/2012, withdrawal suspension "mailed 8/1/2012"); 4. The citing officer testified at Trial, on 4/12/2016, that he had reviewed my license status that same day and it was suspended. After the Trial, I contacted the Wisconsin Department of Transportation and found that they had failed, on several occasions, to reinstate

my license when it should have been reinstated. I secured a document from the agent confirming this (Appendix C). This indicates the Wisconsin Department of Transportation is demonstrably not as flawless as was relied on at Trial.

What this amounts to, is that the core of the Attorney for the County's case was built on the presumption that the Wisconsin Department of Transportation is flawless, and that I was convicted on nothing more than this bias, which is not clear and convincing evidence.

VI. The Court's findings and conclusions were inconsistent with the evidence

The Trial Court, in disposing of my case, found that: when an agent of the Wisconsin Department of Transportation refused to update my address, claiming my non-existent license suspension and fee owed preceded any such service, that this incident served as notice for the suspension that this case sourced from.

In this compounded error, the Trial Court drew conclusions from evidence never submitted. Nothing was demonstrated that my license was actually suspended at the time I testified to my experience at the Wisconsin Department of Transportation service center. There was a clear break between the time I tried to update my address, and when the Verona and Fitchburg Courts suspended my license, which the Attorney for the County correctly deduced as the source of the citation. Instead, the Trial Court extended a massive amount of credibility to this agent of the Wisconsin Department of Transportation, and completely overlooked my driving record, produced by the same agency, and submitted by the Attorney for the County.

VII. The Court failed to cure the aforementioned defect after I raised it

After the Court drew its' erroneous conclusion, I promptly objected to it, raising the issue that the incident I testified to was not the suspension that served as the base of the citation. The Trial Court responded with "bah", before waving me off.

It cost me more than I would have been fined making my appearances. This Trial Court disposed of my case as if another minute of its' time was worth far more.

VIII. My primary challenges have not been addressed, refuted, or discussed

My case isn't an exploit, a scam, or a joke. It was inevitable when the State Legislature dumped so much responsibility on an Administrative agency, while contemporaneously trying to limit the amount of accountability that agency had.

In State v. Collova, the Supreme Court rejected arguments that would have soiled substantive due process. The law now unequivocally reads that it is presumed that Wisconsin Statute 343.22 was either adhered to, or neglected, and thus establishing fault with the citizen in the case of the latter. I testified, and the Trial Court found credible, that I traveled to a Wisconsin Department of Transportation service center and offered a written document in an attempt to update my address, but was refused service by an agent. I argued that statute Wisconsin Statute 343.44(3) offers an affirmative defense, or that the law is unconstitutional. The Trial Court drew an unsupported conclusion to bypass these arguments, and the Court of Appeals first used the erroneous entry of a default judgment, later responding with an inclusive

statement that amounts to another "bah", and again bypassed my legitimate challenges to the statute.

I contend that these challenges haven't been addressed because the Courts who reviewed them had nothing to refute them with. When someone follows the law, and informs the Wisconsin Department of Transportation of an address change, and an agent makes an error, the fault should fall back to the Administrative agency for failure to provide notice; It should if the Administrative agency fails in any other way that results in the failure to provide notice. The legislature cannot invent a law that circumvents substantive due process, that's part of the point of substantive due process: it can be a check to the powers of government individuals who would seek to handicap the rights and entitlements of citizens in order to streamline a process.

CONCLUSION

For the reasons stated in this brief, I ask that the Court reverse and vacate the judgment, and either dismiss the complaint with prejudice, or remand for a Jury Trial.

Dated: April 9, 2018

Ian Humphrey

s/Ian Humphrey
4/10/18