COURT OF APPEALS OF WISCONSIN DISTRICT III

City of New Richmond,

Plaintiff-Respondent,

vs.

Appellant's Brief

Warren Wayne Slocum

Defendant-Appellant

Appeal No. 2016 AP 1887

Circuit Court Case No. 2015 CV 467

From a decision(s) in St. Croix County Court, by Judge Vlack

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OF WISCONSIN

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Table of Authorities: Reference is made to statutes 801.14, and 947.01

These references appear on several pages within this brief.

State v. Maker (1970), 48 Wis. 2d 612, 616, 180 N. W. 2d 707

State v. Zwicker , 41 Wis. 2d 497, 508, 164 N. W. 2d 512,

State v. Werstein, 60 Wis.2d 668 211 NW 2d 437 Wis: Supreme Court (1973)

The local judge's decisions on appeal are R-27 and R-29.

Also mentioned are documents indexed as R-1, R-2, R-4, R-25, R-44, R-45, R-48,

Statement of the Issues:

The issues of this case are the local judge's disregard of judicial precedents and procedures, producing a miscarriage of justice.

The procedures disregarded by the local judge include his refusal to make use of a trial jury, even though that was clearly requested and approved (R-1, R-2, R-4).

This detail is important because a trial to the court allows a local judge to determine the outcome of the legal action, rather than having that decision-making authority delegated to a jury, as requested (R-2)

The local judge's disregard of proper judicial procedures also includes an inequitable constriction of evidence and testimony (R-44, 48). While the Plaintiff received the local judge's approval to constrain evidence and testimony in the case (R-44, 48), the Plaintiff violated its own constraints, by providing evidence outside of its own limitations and constraints, in the form of exhibits involving actions that took place well after the time limits imposed by the local judge .

The judicial precedents disregarded by the local judge involve the state's Superior Courts' precedential decisions that disorderly conduct is not defined by a victim's hypersensitive response to appropriate, socially-appropriate behavior---especially when statutory adherence to civil procedures is being faithfully adhered to.

Statement regarding oral argument and publishing of decision: Oral argument is requested. It is also requested that the court's decisions be published.

Statement of the Case:

This is a case involving civil process service that had been evaded by the recipient of the service for an extended period of time.

The recipient of the process service of legal documents is a clerk-treasurer in a rural township (Star Prairie), and he made many efforts at evading service of the legal documents. In order to avoid civil process service, for example, he even closed his

office for several days, so the service was attempted at his home, in a different municipality (City of New Richmond) than the one in which he serves as clerk-treasurer.

This procedure is allowed under s.801.14.

Rather than accept the process service of the legal documents at his home, the intended recipient instead concocted an elaborate ruse about improper behavior of myself, as civil process server, claiming that disorderly conduct was involved, rather than simple, orderly, appropriate, and legal service of the documents.

There is no evidence to support such charges, however, so some was fabricated retroactively, to present an appearance of impropriety in the process service.

This is a transparent effort and attempt at criminalizing behavior that is unwanted by a powerful, well-connected local official--- by deeming actions that are unwanted by the local official as beyond objectionable--- to the point of socially unacceptable.

Since the recipient of the legal documents is well-known, and well-liked by the local city police department, those local authorities, including the Chief of Police of New Richmond, were complicit in promoting the recipient's narrative of wrong-doing.

After initially offering to provide civil process service of the legal documents, for example, the police later threatened me with actual arrest, if additional attempts were made to perform the civil process service.

Even though the police were at the clerk's home at several times during and following the incident, they repeatedly and consistently refused to perform the civil process service I'd subsequently paid them to perform.

The local judge's complicity in this miscarriage of justice is apparent from his handling of the case.

For example, he ignored and disregarded the testimony of the police officer responding to the recipient's complaint (who testified that the clerk's wife was nervous and behaving oddly when he interviewed her---R-45).

The local judge preferentially allowed presentation of evidence from the City that did not qualify under the judge's own restrictions on timeliness, and the local judge also denied consideration of the relevance of the context of the circumstances in which the incident occurred.

Additionally, when the case was re-assigned to him, the local judge ignored the previous judge's approval of the case as a jury trial (R-1), claiming that a separate jury fee needed to be paid by money, instead of acknowledging that the previous judge had

already waived that fee, when the case was accepted as one involving a jury, not a trial to the court judge alone.

By adopting a double-standard of admissible evidence, the local judge:

1) approved evidence from the Plaintiff that was outside of the Plaintiff's own requests for time constraints, but
2) disallowed that from myself as Defendant, which would have identified and explained the actual context and circumstances of the case.

The context and circumstances of the case deserved to be comprehensively exposed and identified, in order for the litigation to proceed properly, according to established Superior Court precedents in the State of Wisconsin (cited later in this brief). For example, both the City's Police Chief, and the intended recipient of the legal documents have established histories of misconduct and corruption in office that was disallowed as evidence by the local judge.

Statement of the Facts:

The local judge chose to convert the jury trial to a trial before the court, against my opposition (R-25).

The local judge also used an improper criteria for determining disorderly conduct, disregarding the legal precedents of Superior Courts in the state that have determined that it is not the discomfort of a party that determines disorderly conduct, but rather the context and circumstances in which behavior occurs.

This shifts the determination of disorderly conduct away from a single person's potential hypersensitivity, and instead compares behavior to the standards of the community in which it occurs.

New Richmond is a community in which the state's statutory procedures for civil process service are accepted and approved of. Adherence to those statutory procedures for civil process service cannot be deemed disorderly conduct, unless it additionally involves truly disreputable behavior which was not present in this case at all.

There is no evidence of disorderly conduct involving the attempted service of legal documents to my local township's clerk-treasurer.

There is instead significant inconsistency in the various stories by the clerk's wife, regarding the events of the attempt at civil process service.

For example, the clerk's wife testified (R-45) that her husband never woke up during the incident in which she claimed that she feared for her safety, from what she later claimed was an attempted forcible entry, but which the 911 recording confirmed was simply a ringing of the doorbell.

The evidence purportedly indicating forcible entry was fabricated well after the incident itself, and it was not part of the investigating officer's interview with the clerk's wife (R-45).

We're living in a time where "alternative facts" are being routinely presented by powerful officials at all levels of government, including the new President.

These attempts at revising and re-writing history and reality are seen by impartial observers as transparent ruses furthering oppression of anyone who objects to the control of authorities---even when official misconduct and corruption is occurring at the highest levels of office, or with lesser ranked individuals, authorities.

Argument Section:

There is no designated authority bestowed on a local circuit court judge to convert a requested jury trial to a trial before only that single court judge.

The right to a trial by one's peers is a foundation of our democracy, and our judicial system. The local judge erred in making a conversion of the trial from a jury trial --- where the judge would have no authority to determine the verdict---to a trial where he alone would make a final determination on the case.

The legal precedents determining and defining disorderly conduct are clear in elucidating and elaborating that it is not merely someone's taking offense at another's behavior that automatically criminalizes that behavior.

By excluding evidence regarding the circumstances and context of the case, the local judge erred.

It is precisely the circumstances in this case that are relevant to the litigation, since some specific behaviors would qualify as disorderly conduct in certain situations, while they would not qualify as disorderly conduct in others: ***State v. Werstein*, 60 Wis.2d 668 211 NW 2d 437 Wis: Supreme Court (1973)**

New Richmond's disorderly conduct ordinance is based on the state statute s. 947.01. From Werstein we see that:

"It is the combination of conduct and circumstances that is crucial in applying the statute to a particular situation." ***State v. Maker*** **(1970), 48 Wis. 2d 612, 616, 180 N. W. 2d 707**

Another excerpt from ***Werstein*** shows that "... the relatedness of conduct and circumstances is of ultimate importance" :

> Wisconsin's disorderly conduct statute proscribes conduct in terms of results which can reasonably be expected therefrom, rather than attempting to enumerate the limitless number of antisocial acts which a person could engage in that would menace, disrupt or destroy public order. ***State v. Zwicker***, **41 Wis. 2d 497, 508, 164 N. W. 2d 512**, Such is especially true in regards to the "otherwise disorderly" proscription wherein the relatedness of conduct and circumstances is of ultimate importance. "This court's emphasis upon the relatedness of conduct and circumstances in the statute is no more than a recognition of the fact that what would constitute disorderly conduct in one set of circumstances, might not under some other. When a famed jurist observed, `The most stringent protection of free speech would not protect a man in falsely shouting fire in a theatre and causing a panic,' the comment related to the crowdedness of the theater as well as to the loudness of the shout.

Additionally, the local judge is ignoring the fact that there is a "hypercritical individual" involved in this case, who believed that ringing a doorbell equates with an attempt to forcefully break into her home, when simple, orderly, civil process service was instead being properly and responsibly engaged in. Again, from ***Werstein,*** where mention is made that "The statute does not punish a person for conduct which might possibly offend some hypercritical individual".

> It is the combination of conduct and circumstances that is crucial in applying the statute to a particular situation." ***State v. Maker*** **(1970), 48 Wis. 2d 612, 616, 180 N. W. 2d 707**.
> "The statute does not punish a person for conduct which might possibly offend some hypercritical individual. The design of the disorderly conduct statute is to proscribe substantial intrusions which offend the normal sensibilities of average persons or which constitute significantly abusive or disturbing demeanor in the eyes of reasonable persons." *State v. Zwicker,* at page 508.

Though offense was taken that civil process service was being properly attempted at the clerk's home, the statutes allow for just such process service at a personal residence, when an office is closed.

801.14

2) ... Service upon the attorney or upon a party shall be made by delivering a copy or by mailing it to the last-known address, or, if no address is known, by leaving it with the clerk of the court. Delivery of a copy within this section means: handing it to the attorney or to the party; transmitting a copy of the paper by facsimile machine to his or her office; or leaving it at his or her office with a clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at his or her dwelling house or usual place of

abode with some person of suitable age and discretion then residing therein. Service by mail is complete upon mailing. Service by facsimile is complete upon transmission.

The fearful hypersensitivity of the clerk's wife to having process service at her residence is unreasonable, since both she and her husband are public officials. Her unreasonable fear that process service was a break-in attempt at her home is incompatible and inconsistent with her official duties as a Notary Public, where her address is clearly listed as her residence, not her place of employment at the bank in New Richmond.

If the clerk's wife did not want to serve the public as a Notary Public from her residence, she could have simply listed her address at the bank, instead of at her home, as other Notaries Public have done.

Conclusion:

The local judge erred in converting the jury trial case to one before himself alone.

He also erred in allowing a double-standard of the admissibility of evidence--- excluding contextual and circumstantial evidence/testimony from myself as Defendant, while allowing evidence from the Plaintiff that did not meet the Plaintiff's own restrictions and constraints on admissible evidence.

The relief sought in this action is to have the local judge's decisions reversed. If another trial is ordered, it is requested that such a trial be conducted before a jury, as the first trial was also to be conducted.

Certification of Brief: I certify that this brief conforms to the rules contained in s. 809.19(8)(b) and (c) for a brief produced using the Proportional serif font. The length of this brief is 2,345 words.

Dated this Feb. 20, 2017

Warren Slocum, pro se

CERTIFICATION OF MAILING

I certify that this brief or appendix was deposited in the United States mail for delivery to the Clerk of the Court of Appeals by first-class mail, or other class of mail that is at least as expeditious, on (date of mailing) 2-20-17. I further certify that the brief or appendix was correctly addressed and postage was pre-paid.

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OR

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I certify that on (date of delivery to carrier) _____, this brief or appendix was delivered to a third-party commercial carrier for delivery to the Clerk of the Court of Appeals within 3 calendar days. I further certify that the brief or appendix was correctly addressed.

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NOTE: You may also file an affidavit of mailing or delivery, setting forth the same information. See §809.80(4), Wis. Stats.