

19AP0285

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CLERK OF COURT OF APPEALS
OF WISCONSIN

STATE OF WISCONSIN
COURT OF APPEALS
DISTRICT IV
Case No. 2019AP0285

COUNTY OF GRANT,

Plaintiff-Respondent,

v.

DALE ANDREJCZAK,

Defendant-Appellant.

BRIEF OF DEFENDANT-APPELLANT

On Appeal from a Final Order of the Grant County Circuit
Court, Case No. 2018TR4379,
The Honorable Craig Day, Presiding

DALE ANDREJCZAK

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Defendant-Appellant

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TABLE OF AUTHORITIES

CASES CITED

State v. Hamilton,
356 NW 2d 169 - Wis: Supreme Court 1984.....3

STATUTES CITED

Wisconsin Statutes
§946.41(1).....2,3

ISSUES PRESENTED

Did the trial court lack sufficient evidence to support its finding Appellant Dale Andrejczak guilty?

Answered by the trial court: No.

Did the trial court fail to prove Appellant Dale Andrejczak guilty beyond a reasonable doubt?

Answered by the trial court: No.

STATEMENT ON ORAL ARGUMENT

Appellant Dale Andrejczak denies a request for an oral argument to take place.

STATEMENT ON PUBLICATION

The opinion in the case should be published in official reports as it will contribute to legal literacy by collecting case law.

STATEMENT OF CASE AND FACTS

In circuit court, the court agrees that the information provided is plausible, Court Trail Transcript 11:pg17, however fails to address the statute as a whole and fails to align the statute with the evidence presented. there is no dispute on what was said but who it was said to.

The court first addressed the verdict as plausible, Court Trial Transcript 12:pg17, then shortly later considers it implausible based on wording, Court Transcript 16:pg17. This is a strong indication of reasonable doubt and should have been dismissed based on the evidence that was presented.

ARGUMENT

The trial court erred when finding Appellant Dale Andrejczak in violation of Obstruction, sec. 946.41(1).

The trial court failed to meet the basic requirements set forth by the state. The state must prove three elements to the offense of obstruction of an officer.

1. The defendant obstructed an officer,
2. The officer was doing an act in his or her official capacity and with lawful authority,
3. The defendant obstructed the officer, knowingly, that is, the defendant knew or believed that he or she was obstructing the officer while the officer was acting in his or her official capacity and with lawful authority.

When Appellant Dale Andrejczak was on a busy, public sidewalk where police officer Jacobson was carrying out an investigation per Officer Jacobson, Appellant Dale Andrejczak is free to carry conversation protected by the

Constitution, specifically the First Amendment and is not punishable by law.

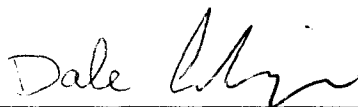
By the circuit court not proving the elements needed for a verdict, I believe, State v. Hamilton, 356 NW 2d 169 - Wis: Supreme Court 1984, is an applicable source that resembles a great amount of similarities as it relates to the appellants case.

CONCLUSION

The court should reverse the circuit court decision in whole, as no reasonable judge could have found Appellant Dale Andrejczak guilty of violating 946.41(1) Obstruction. In this case the evidence is insufficient to prove that that Appellant Dale Andrejczak's conversation obstructed-using the state's definition of obstruction.

Dated: April, 11 2019

Respectfully submitted,



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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 the brief is 870 words.

Dated: April, 11 2019

Signed:



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APPENDIX

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CERTIFICATION AS TO APPENDIX

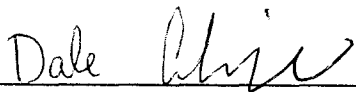
I hereby certify that filed with this brief, either as a separate document or as a part of this brief, is an appendix that complies with § 809.19(2)(a) and that contains, at a minimum: (1) a table of contents; (2) the findings or opinion of the circuit court; and (3) portions of the record essential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

I further certify that if this appeal is taken from a circuit court order or judgment entered in a judicial review of an administrative decision, the appendix contains the findings of fact and conclusions of law, if any, and final decision of the administrative agency.

I further certify that if the record is required by law to be confidential, the portions of the record included in the appendix are reproduced using first names and last initials instead of full names of persons, specifically including juveniles and parents of juveniles, with a notation that the portions of the record have been so reproduced to preserve confidentiality and with appropriate references to the record.

Dated: April, 11 2019

Signed:



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