RECEIVED
NOV 20 2020
CLERK OF COURT OF APPEALS
OF WISCONSIN

STATE OF WISCONSIN
COURT OF APPEALS
DISTRICT IV.

APPEAL NUMBER 2020AP01598
Grant County Circuit Court Branch I Case Number 19-FO-0479

State of Wisconsin - Plaintiff-Respondent

v.

Greg Griswold - Defendant-Appellant

APPEAL FROM ADVERSE DECISIONS
ENTERED IN GRANT COUNTY CIRCUIT COURT,
The Hororable Judge Robert P. VanDeHey

INITIAL BRIEF OF APPELLANT GREG GRISWOLD

Respectfully Submitted By:

Greg Griswold, Defendant - Appellant
637 West Pine Street
Muscoda, WI 53573
608-475-9614

Sheila T. Reiff
Clerk

WISCONSIN COURT OF APPEALS
OFFICE OF THE CLERK
110 E. Main Street, Suite 215
P.O. Box 1688
Madison, WI 53701-1688

Telephone: 608-266-1880
TTY: 800-947-3529
Fax: 608-267-0640
http://www.wicourts.gov

COURT ORIGINAL

State of Wisconsin,
Plaintiff-Respondent,
v.
Greg Douglas Griswold,
Defendant-Appellant.

Date: November 20, 2020

District: 4
Appeal No. 2020AP001598
Circuit Court Case No. 2020FO000479

Acknowledgement of Filing of Brief

I have this day filed the following brief in the above matter. Depending on your case type, your attention is directed to Rules 809.107, 809.19, 809.43, and Rule 809.80, Rules of Appellate Procedure, or court order, if appropriate, for additional briefing information.

Brief & Appx of Appellant(s)

Sheila T. Reiff
Clerk of Court of Appeals

Distribution:		Address	City	State	Zip Code
Court Original					
Anthony J. Pozorski	Assistant District Attorney	130 W. Maple St.	Lancaster	WI	53813
Greg Douglas Griswold		637 W Pine Road	Muscoda	WI	53573

STATE OF WISCONSIN
COURT OF APPEALS
DISTRICT IV.

RECEIVED
NOV 20 2020
CLERK OF COURT OF APPEALS
OF WISCONSIN

APPEAL NUMBER 2020AP1598166
Grant County Circuit Court Branch II Case Number 19-FO-0479

Notice of Filing Appellant's Initial Appeal Brief

As of today's date, November 17th, 2020, I am now mailing first class postage prepaid, 5 copies of Greg Griswold's Initial Appeal Brief, to the Clerk of the Court of Appeals, as well as to attorney Anthony Pozorski.

Sincerely submitted this 17th day of November 2020 by:

Greg Griswold, Defendant - Appellant *pro se*
637 West Pine Street
Muscoda, WI 53573
608-475-9614

cc: Attorney Anthony Pozorski today's date.

Table of Contents:

Table of Authorities Cited:

Treatises:

Statutory Authorities:

Statement of Issues Presented for Review:

1.Did the Court erroneously exercise its discretion in erroneously interpreting to stretch the applicable Statute, so to become justified in finding Griswold guilty of matters not actually charged?

Court: Because Griswold's fire was within a timber protected area, and Griswold did not at the time possess an authorized burning permit, Griswold was found guilty as charged to now owe a penalty of $ 175.30 for such an infraction of the statute.

Griswold: The statute violation charged, provided for an explicit exemption that obviated any need for a person's first obtaining a burning permit, regardless of whether the fire was within a timber protected area, such that in no possible event, was the State capable of having proven Griswold to have been guilty as wa found charged.

2.Did Warden Worden legitimately issue the citation without having had any actual personal knowledge of the actual alleged infraction?

Court: The Court accepted Warden Worden's citation, notwithstanding her testimony that she hadn't even determined which prior fire evidenced on the property was the one burned on the date charged.

Griswold: Notwithstanding multiple attempts made to have directly communicated with Warden Worden, she not only failed to have ever returned a single call to Griswold prior to having issued a citation without personal knowledge of the circumstances alleged, such that the citation issued was without a cognizable basis to have been so issued.

3.Did the State's prosecutor Pozorski NOT readily fully concede Griswold's absolute complete innocence?

Court: Pozorski's admission against interest, agreeing with Griswold's position taken that a valid exemption permitting a warming fire was controllilng, was ignored as though never made to the Court by an officer of the Court, such that Griswold was found guilty as though the exemption didn't exist.

Griswold: Pozorski's admission proved Griswold's right to have claimed a legitimate exemption so as to not have been able to have been found guilty as charged.

STATEMENT ON PUBLICATION:

Griswold believes that the opinion of the Court of Appeals determining in this case's appeal should be published, as this appeal presents new/ novel issues raised in contention, that more normally entirely escape mention in any such similar appellate review, and as such, would be extremely helpful hereinafter, to better guide other *pro se* parties, as well as municipal, county, and circuit courts facing similar circumstances not normally arising in the usual course of typical issues arising in such rare instances of such litigation regarding whether or not a citizen retains the right to enjoy a warming fire without interference, as the statute was written.

STATEMENT ON ORAL ARGUMENT:

Griswold does not request oral argument in this appeal, and believes the issues involved will be completely and fairly presented solely by the briefs submitted by the parties.

Statement of the Case:

On May 4th, 2020, Griswold was found enjoying a small fire at his 637 West Pine Road, Muscoda, WI residence, resulting in what became thereafter issued as a citation issued by a Department of Natural Resources officer for his having allegedly violated Wisconsin Administrative Code 30.02, for having been "burning a fire without a permit".

Case Facts:

During the September 3rd, 2020 trial, prosecutor Pozorski established that:

1. Muscoda Fire Chief Hackl responded to a fire at Griswold's 637 West Pine Road residence, and directed that it be extinguished forthwith, R-8 3:16-5:7;

2. Days later, Wisconsin Department of Natural Resources Warden Worden visited Griswold's residence, observed several areas that had previously burnt, and though uncertain as to which "burnt area" was the recent fire in question, wrote Griswold a citation for having violated the Wisconsin Administrative Code 30.03, for Griswold's having allegedly had a fire without a burning permit, normally issued between January and May, but then suspended due to COVID-19 at the time of "this fire". R-8 6:10-7:25;

Under direct examination, Griswold testified that:

1. The citation issued was for Griswold's alleged having violated Statute 26.12(5)(b), R-8 9:7-9;

2. Over the recent history of the property, there was accumulated evidence of many fires, of various sizes and duration, R-8 8-12;

3. The particular subject fire of May 4th, 2020 was a small personal fire, which Griswold had believed was legitimately burned pursuant to the exception provided in the Wisconsin Statute Section 26.12's (5)(b)'s:

""No person may set any fire except for warming the person.";

4. At the time of having engaged enjoyment of the small fire, Griswold had believed that because it was a very small wood pile, his use of the radiant heat given off was legitimate, R-9 12-17.;

5. Griswold testified while explaining that:

a. . . . it was a small fire;

b. Griswold was attending it;

c. Griswold was getting warmed up by it;

d. Griswold had been working there all day and had thought he had every right to have had that small fire for the purposes of getting warm that night, R-8 9:23-10:2;

e. it had been a small fire that took but just minutes to have extinguished, R-8 10:6-13;

f. Griswold was working outside until midnight, and had believed he had the right to have had a small warming fire that evening, R-8 10:11-16;

When prosecutor Pozorski asked Griswold why he hadn't explained his story to the Warden Worden, Griswold explained that although he had returned her message left on his phone, on two different occasions over the next week, Griswold never had actually

experienced having had any direct contact whatsoever with Warden Worden prior to having received the citation thereafter mailed to his residence address. R-8 10:25- 11:14.

Prosecutor Pozorski volunteered his appreciation for Griswold's having referenced the applicable controlling statute governing the citation issued, and in particular, noted Griswold's cited "exception", before allowing that:

> ". . .and had he told that to the fire people there that night, that would be an entirely different story. . .: R-15:23-16:1.

thereafter then rationalizing that because of the COVID-19 pandemic and the time of year in an extensive area where they don't want fires so close to timber, Griswold ought to be found as "guilty". R-8 16:9-18.

Griswold's final comments to the Court referenced his memory of Warden Worden's comments made that her issuance of the citation had nothing to do with the COVID-19 pandemic, such that it was strictly the fact that Griswold had engaged in having had the fire that evening. R-8 16:21-25. Griswold augured that:

> "I think everybody's conceded it was a small fire. . . The fact that I was using the wood from all of ember - - or the house that had collapsed in the area I was cleaning up, I clearly was burning it up and getting warm at the same time. I don't know that I had any obligation to, you know, either have known the statute or given all the reasons why I was having a fire that evening. I don't think that has any bearing on whether I'm guilty or not. I was clearly cited for a specific statute, it has an exception, and I clearly wa there warming myself because I was working until midnight, as I was the entire month of May trying to clean the mess up, and I think the State has completely failed to have met its burden. I don't think it's a matter of my cleverness to have read the statute that I was cited for to be prepared to defend against the charge. I think the bottom line is there is an exception for warming, and I think that's a legitimate reason why there is no reason to enforce the citation given." R-8 16:21-17:19.

The Court concluded:

> " Well, as I understand it, the COVID comes into it because even if you had a permit to burn, it would have been suspended because of the pandemioc, but you didn't even have a permit. And when you say there is an exception, the exception only applies in law if it applies in fact, and, you know, telling the fire department that you were just burning up some stuff to not have to take it to the dump is different than, you know, saying it's just to keep you warm. This was may 4th, 8:00, it looks like. Yeah, usually when someone's working, they don't need a fire to keep them warm anyway.
>
> So Mr. Griswold, I think I go - - I would go back to your first comment about you're not expected or how can you be expected to understand tht you need a permit. I thinkyou thought you were ok to burn. I think that you were unaware that it was illegal because of the extensive area and the permit suspension and everything else, but, unfortunately, lack of knowledge about the law doesn't serve as a defense. So I think the County has proven by clear, convincing, satisfactory evidence that you violated the particular rules. It's 175.30. . ." R-8 17:20-19.

Argument:

Griswold was brought to trial under the color and force of Wisconsin's State Statutes' Section's 26.12 (5)(b), to the exclusion of all others. . . Notwithstanding that both prosecutor Pozorski, as well as the Court fully acknowledged that Griswold's use of a "warming fire" was fully legitimately permitted by the explicit exception written within the controlling statute, each sought to have imposed entirely other rational's to justify that somehow, Griswold's legitimacy of use was to instead have been unduly constrained as a violation of law wholly outside of that contemplated by the legislative exception so explicitly mandated.

Pursuant to long standing legal authorities, statutory interpretation begins with the language of the statute at issue. ***Watton v. Hegerty***, 2008 WI 74, ¶14, 311 Wis. 2d 52, 751 N.W.2d 369.

"If the meaning of the statute is plain, we ordinarily stop the inquiry." ***Id.*** (quoting). The plain meaning of a statute can be discerned from the words used, as well as the context in which those words are used. ***Id.*** Additionally, statutory purpose is helpful in a plain meaning analysis; courts will favor an interpretation of statutory language that fulfills the statute's purpose. ***See State v. Hanson***, 2012 WI 4, ¶17, 338 Wis. 2d 243, 808 N.W.2d 390. Statutory purpose can be stated expressly or it may be discerned from context and structure. ***Id.*** Moreover, statutory language is not interpreted in isolation "but as part of a whole; in relation to the language of surrounding or closely-related statutes; and reasonably, ***to avoid absurd or unreasonable results***." ***Watton***, 311 Wis. 2d 52, ¶14 (quoting ***Kalal***, 271 Wis. 2d 633, ¶46) (internal quotation marks omitted).(emphasis added)

See Wenke, 274 Wis. 2d 220, ¶42 "When construing statutes, courts must presume that the legislature intends for a statute to be interpreted in a manner that advances the purposes of the statute, not defeats those purposes." (internal quotation marks and citation omitted).

When we construe a statute, we aim to discern and give effect to the legislature's intent. ***Novak v. Madison Motel Assocs.***, 188 Wis. 2d 407, 414, 525 N.W.2d 123 (Ct. App. 1994). We presume the legislature intended a construction that advances rather than defeats its purpose. ***Id.***

We must faithfully give effect to legislative enactments by determining the statute's meaning, primarily through its language, which we assume expresses the legislature's intent. ***State ex rel. Kalal v. Circuit Court for Dane County,*** 2004 WI 58, ¶ 44, 271 Wis. 2d 633, 681 N.W.2d 110. We favor a construction that fulfills the intent of the statute or regulation over one that defeats its manifest object. ***Shands***, 115 Wis. 2d at 356.

Interpretation of statutes and their application to particular facts are questions of law, which we review independently. ***State v. Jason R.N.***, 201 Wis. 2d 646, 650, 549 N.W.2d 752 (Ct. App. 1996).

"[S]tatutory interpretation 'begins with the language of the statute. If the meaning of the statute is plain, we ordinarily stop the inquiry.'" ***State ex rel. Kalal v. Circuit Court for Dane Cnty.***, 2004 WI 58, ¶45, 271 Wis. 2d 633, 681 N.W.2d 110 (quoting ***Seider v. O'Connell***, 2000 WI 76, ¶43, 236 Wis. 2d 211, 612 N.W.2d 659).

Statutory interpretation presents a question of law, which we review independently. ***Richards v. Badger Mut. Ins. Co.***, 2008 WI 52, ¶14, 309 Wis. 2d 541, 749 N.W.2d 581.

Seider v. O'Connell, 2000 WI 76, ¶32, 236 Wis. 2d 211, 612 N.W.2d 659 ("As a general rule, courts apply the ordinary and accepted meaning of language in statutes, unless it leads to an absurd result.") (internal citation omitted); ***State v. Delaney***, 2003 WI 9, ¶15, 259 Wis. 2d 77, 658 N.W.2d 416 ("[W]e may construe a clear and unambiguous statute if a literal application would lead to an absurd or unreasonable result.") (quotation marks and citation omitted); ***Rice v. Ashland County***, 108 Wis. 189, 192, 84 N.W. 189 (1900) ("[I]f, viewing a statute from the standpoint of the literal sense of its language, it is unreasonable or absurd, an obscurity of meaning exists, calling for judicial construction."). ***See also*** 2A Norman J. Singer & J.D. Shambie ***Singer, Statutes and Statutory Construction*** (7th ed. 2007) § 45:12, at 101, 107) ("It is fundamental, however, that departure from the literal construction of a statute is justified when

such construction would produce an absurd and unjust result and would clearly be inconsistent with the purposes and policies of the act in question. . . . If one reasonable interpretation of a statute yields absurd results while the other interpretation yields no such absurdities, the latter interpretation is preferred.") (footnotes omitted).

See, e.g., Racine Harley-Davidson, Inc. v. State Div. of Hearings & Appeals, 2006 WI 86, ¶92, 292 Wis. 2d 549, 717 N.W.2d 184 (2006) (construing the statute's terms to be consistent with its express purpose); ***State v. Hayes***, 2004 WI 80, ¶39, 273 Wis. 2d 1, 681 N.W.2d 203 (2004) ("We therefore turn to an analysis of the purpose[ ] . . . of the statute to determine the interpretation that gives the statute its intended effect."). ***See, e.g., Racine Harley-Davidson***, 292 Wis. 2d 549, ¶82 (examining other statutory provisions to determine the meaning of the statute before the court); ***Hayes***, 273 Wis. 2d 1, ¶18 (requiring that the statute "be viewed in the context of [the chapter] as a whole"). ***See, e.g., State v. Robert K.***, 2005 WI 152, ¶30, 286 Wis. 2d 143, 706 N.W.2d 257 (2005) (considering case law as relevant in interpreting a statute). ***See, e.g., Richards v. Badger Mut. Ins. Co.***, 2008 WI 52, ¶22; ___ Wis. 2d ___, 749 N.W.2d 581 (strangely viewing statutory history as part of the plain meaning statutory analysis). ***See, e.g., Racine Harley-Davidson,*** 292 Wis. 2d 549, ¶81 (Wis. 2006) (examining the legislative history of the statute to determine its meaning); ***Robert K.***, 286 Wis. 2d 143, ¶29 (discussing the legislative history, including the drafting records, of a statute to determine its meaning).

State v. Popenhagen, 2008 WI 55, ¶42, ___ Wis. 2d ___ 749 N.W.2d 611 (applying three rules of statutory interpretation). ***State v. Hayes***, 273 Wis. 2d 1, ¶16 (2004) ("Additional sources of legislative intent such as the context, history, scope, and objective of the statute, including the consequences of alternative interpretations, illuminate the intent of the legislature."). ***See Popenhagen***, 2008 WI 55, ¶87 ("The legislature could not have intended that the statute would be interpreted in such a way to allow circumvention of the carefully drafted legislative requirements and safeguards . . . .").

The construction of a statute presents a question of law which we review de novo. ***State ex rel. Treat v. Puckett,*** 2002 WI App 58, ¶9, 252 Wis. 2d 404, 643 N.W.2d 515. The predominant goal of all statutory interpretation is to ascertain legislative intent. ***Caflisch v. Staum***, 2000 WI App 113, ¶7, 235 Wis. 2d 210, 612 N.W.2d 385. We look first to the plain language of a statute to determine its meaning. ***Pasko***, 2002 WI 33 at ¶26. If we can determine a statute's meaning based upon its plain language, our inquiry stops there. Id. If, however, the statute's language is ambiguous, we will consult its legislative history, scope, context and purpose in order to discern the legislature's intent. ***Evers v. Sullivan***, 2000 WI App 144, ¶5, 237 Wis. 2d 759, 615 N.W.2d 680.

When we interpret a statute, we must give the statutory language its common, ordinary, and accepted meaning. ***Town of Madison v. County of Dane***, 2008 WI 83, ¶17, 311 Wis. 2d 402, 752 N.W.2d 260. We may consult a recognized dictionary to determine the common, accepted meaning of a word. ***Id.***

""""we are not bound by the parties' interpretation of the law or obligated to accept a party's concession of law. This court, not the parties, decides questions of law." ***State v. Carter***, 2010 WI 77, ¶50, 327 Wis. 2d 1, 785 N.W.2d 516 (citing ***Bergmann v. McCaughtry***, 211 Wis. 2d 1, 7, 564 N.W.2d 712 (1997)). The parties' interpretation here ignores the statute's plain language.

"As a general rule, courts apply the ordinary and accepted meaning of language in statutes, unless it leads to an absurd result.") (internal citation omitted); ***State v. Delaney***, 2003 WI 9, ¶15, 259 Wis. 2d 77, 658 N.W.2d 416 ("[W]e may construe a clear and unambiguous statute if a literal application would lead to an absurd or unreasonable result.") (quotation marks and citation omitted); ***Rice v. Ashland County***, 108 Wis. 189, 192, 84 N.W. 189 (1900) ("[I]f, viewing a statute from the standpoint of the literal sense of its language, it is unreasonable or absurd, an obscurity of meaning exists, calling for judicial construction.").

Application of statutes requires that we "faithfully give effect to the laws enacted by the legislature." ***State ex rel. Kalal v. Circuit Court***, 2004 WI 58, ¶44, 271 Wis. 2d 633, 662, 681 N.W.2d 110, 123–124 ("It is the enacted law, not the unenacted intent, that is binding on the public."). In doing so, "[w]e assume that the legislature's intent is expressed in the statutory language." ***Id.***, 2004 WI 58, ¶44, 271 Wis. 2d at 662, 681 N.W.2d at 124. If that language is clear, we apply it as it reads because the words used by the legislature are the best evidence of its intent. ***Id.***, 2004 WI 58, ¶45, 271 Wis. 2d at 663, 681 N.W.2d at 124. ***State v. Swiams***, 2004 WI App 217, ¶5, 277 Wis. 2d 400, 404–405, 690 N.W.2d 452, 454.

When interpreting a statute, our primary objective is to ascertain and give effect to the intent of the legislature. ***See Ball v. District No. 4, Area Bd. of Vocational, Technical and Adult Educ.***, 117 Wis. 2d 529, 537-38, 345 N.W.2d 389 (1984). To determine the legislature's intent, we first look to the language of the statute itself. ***Id.*** at 538.

See Tesker v. Town of Saukville, 208 Wis. 2d 600, 612, 561 N.W.2d 338 (Ct. App. 1997) ("Courts must look to the common-sense meaning of a statute to avoid unreasonable and absurd results.").

Here, the statutory language presented remains clear and spectacularly quite wholly totally unambiguous:

Wis. Statute Chapter 26.12(5) (b):

No person may set any fire ***except for warming the person*** or cooking food ***within the limits of any extensive forest protection area at any time during January through May*** except when the ground is snow-covered and during any other time of the year when so ordered by the department unless written permission has been received in advance from a duly appointed fire warden. The department shall prepare the necessary blanks for this purpose, shall promulgate rules for the issuance of the permits, shall appoint, if necessary, in addition to the regular or emergency fire wardens, others who shall be authorized to issue the permits, and shall have jurisdiction over all other details concerned with or growing out of the closed season on the setting of fire. (Emphasis added)

Contrary to the law's interpretation by the trial Court, the exception relied upon by Griswold,

"except for warming the person. . .",

explicitly was written to have deliberately taken into account to have fully recognized that:

" even within any extensive forest protection area at any time during January through May. . .",

covering Griswold here, because Griswold was making use of the 8:00 p.m. evening fire for his personal warming application on a cold very early spring evening finding him working outside until the midnight hour of the evening, both the prosecutor Pozorski, as well as the Court erred to have instead, re-written the legislative intent made to have explicitly carved out the relied upon exception, so as to have instead, found Griswold guilty of having had an offending fire, found burning within an extensive forest protected area, during the exact May time frame that no permits would otherwise ever be issued, much less required, for exactly such an allowed, specifically provisioned for, explicit personal warming use allowed intention. Exactly no different than was the legal authority developed regarding what was Wis. Stat. 227.53(3) hereinafter, the exemption relied upon by Griswold, should be found as a matter of law, exactly as controlling, because it too is a more specific clause of the particularly controlling governing statute that Warden Worden's citation relied upon as when so first written..

> We conclude that Wis. Stat. § 227.56(3) is controlling because it is a more specific statute. Specific statutes govern over general statutes. ***Gottsacker Real Estate Co. v. DOT***, 121 Wis. 2d 264, 269, 359 N.W.2d 164 (Ct. App. 1984) ("[T]he general rule of statutory construction in

> Wisconsin where two statutes relate to the same subject matter is that the specific statute controls over the general statute."). Moreover, civil procedure statutes may apply to judicial review under Wis. Stat. ch. 227, but only where no conflict arises between the two. ***State ex rel. Town of Delavan v. Circuit Court for Walworth Cnty.***, 167 Wis. 2d 719, 731, 482 N.W.2d 899 (1992) ("[V]arious civil procedure statutes apply to ch. 227 judicial reviews as long as there is no conflict between the civil procedure statute and ch. 227.").
>
> ***see also Dunphy Boat Corp. v. Wisconsin Emp't Relations Bd.***, 267 Wis. 316, 322, 64 N.W.2d 866 (1954) (holding that the statutory construction rule "expressio unius est exclusio alterius," meaning, the express mention of one thing excludes all others, is inapplicable to the contents of an "including" clause).
>
> refers to the surplusage canon of statutory interpretation. This canon requires a court to give effect to every word written by the legislature if possible, such that no words are superfluous. ***Klemm v. American Transmission Co.***, 2011 WI 37, ¶18 n.10, 333 Wis. 2d 580, 798 N.W.2d 223.

Griswold would postulate that here, the statutory language relied upon is not ambiguous, and believes rather strongly that prosecutor Pozorski would remain extremely hard pressed to controvert both his previously expressed opinion regarding Griswold's well placed reliance upon the exception, as well as that the exception ought to governing the citation so issued in reliance upon its very authority.

> Evaluating the public policy implications of an unambiguous statute is beyond the court's role. PUBLISHED OPINION Appeal Nos. 2011AP1479 2011AP2693 Cir. Ct. Nos. 2010CV690 ***Beaver Dam Community Hospitals, Inc., Plaintiff-Respondent, v. City of Beaver Dam,*** Defendant-Appellant.
>
> The maxim ***expressio unius est exclusio alterius*** ordinarily applies when a statute lists, for example, persons, things, or forms of conduct without any general word preceding or following the listing. According to the maxim, the inference is that all omissions from the listing are excluded from application of the statute. 2A Norman J. Singer & J.D. Shambie Singer, ***Statutes and Statutory Construction*** (7th ed. 2007) § 47:23, at 375-77.

To read surplusage into this controlling statute's provisions, as would have both prosecutor Pozorski as well as what were the trial court's erroneously reached conclusions relied upon suggests writing into the legislative intent adopted verbiage and

context that when applied, simply self-servingly rendered the statute's exception as then completely meaningless. This Court of Appeals normally strives to avoid such absurd results when interpreting statutes. ***See Peters v. Menard, Inc.***, 224 Wis. 2d 174, 189, 589 N.W.2d 395 (1999) (statutes should be construed so as to avoid absurd results); ***State v. Setagord***, 211 Wis. 2d 397, 427, 565 N.W.2d 506 (1997) ("Statutes are to be construed to avoid rendering any part of the statute meaningless or superfluous.").

> in the absence of a statutory definition, the general rule is to construe the plain language of the statute according to common and approved usage of the words chosen by the legislature. Wis. Stat. §990.01(1); ***see also State v. Gilbert***, 115 Wis. 2d 371, 377-78, 340 N.W.2d 511, 515 (1983). Common meaning of words may be established by using a dictionary. ***Gilbert***, 115 Wis.2d at 378, 340 N.W.2d at 515.
>
> Norman J. Singer, ***2A Sutherland Statutory Construction*** § 45.07, at 38 (6th ed. 2000). One concise statement of the Holmes' "statutory meaning" approach is the following from the United States Supreme Court:
>
> > "We have stated time and again that courts must presume that a legislature says in a statute what it means and means in a statute what it says there." ***Connecticut Nat'l Bank v. Germain***, 503 U.S. 249, 253-54 (1992); ***see also Hartford Underwriters Ins. v. Union Planters Bank***, 530 U.S. 1, 6 (2000).
>
> Sutherland further described the distinction between these interpretive alternatives:
>
> Generally when legislative intent is employed as the criterion for interpretation, the primary emphasis is on what the statute meant to members of the legislature which enacted it. On the other hand, inquiry into the "meaning of the statute" generally manifests greater concern for what members of the public to whom it is addressed, understand. 2A Norman J. Singer, ***Sutherland Statutory Construction*** § 45.08 at 40.
>
> Sutherland suggests that an "[i]mplied endorsement of Justice Holmes' point of view is . . . discernible in the many cases which express preference for 'common,' 'ordinary,"natural,' 'normal,' or dictionary definitions" of statutory language. ***Id.***, § 45.08 at 43. Furthermore, a "policy favoring conventional meanings and general understandings over obscurely evidenced intention of the legislators is supported in the oft repeated premise that intention must be determined primarily from the language of the statute itself." ***Id.*** at 46.
>
> And finally, "resource materials for statutory construction are commonly classified into two fundamentally different categories, called 'intrinsic' and 'extrinsic' aids. These characterizations refer to the text of the statute." ***Id.***, § 45.14 at 109. As a general matter, "[e]xtrinsic aids . . . are

useful to decisions based on the intent of the legislature, while intrinsic aids have greater significance for decisions based on the 'meaning of the statute' as understood by people in general." ***Id.***, § 45.14 at 109-110. Viewed against these background general principles, Wisconsin's statutory interpretation case law has evolved in something of a combination fashion, generating some analytical confusion. The typical statutory interpretation case will declare that the purpose of statutory interpretation is to discern and give effect to the intent of the legislature, but will proceed to recite principles of interpretation that are more readily associated with a determination of statutory meaning rather than legislative intent——most notably, the plain meaning rule. ***See, e.g., State ex rel. Cramer v. Schwarz***, 2000 WI 86, ¶¶17-18, 236 Wis. 2d 473, 613 N.W.2d 591. Although ascertainment of legislative intent is the frequently-stated goal of statutory interpretation, our cases generally adhere to a methodology that relies primarily on intrinsic sources of statutory meaning and confines resort to extrinsic sources of legislative intent to cases in which the statutory language is ambiguous. ***Id.***; ***see also Seider v. O'Connell***, 2000 WI 76, ¶¶43-53, 236 Wis. 2d 211, 612 N.W.2d 659; ***State v. Setagord***, 211 Wis. 2d 397, 406-07, 565 N.W.2d 506 (1997); ***State v. Williams***, 198 Wis. 2d 516, 525-27, 544 N.W.2d 406 (1996); ***State v. Martin***, 162 Wis. 2d 883, 893-94, 470 N.W.2d 900 (1991).

Accordingly, we now conclude that the general framework for statutory interpretation in Wisconsin requires some clarification. It is, of course, a solemn obligation of the judiciary to faithfully give effect to the laws enacted by the legislature, and to do so requires a determination of statutory meaning. Judicial deference to the policy choices enacted into law by the legislature requires that statutory interpretation focus primarily on the language of the statute.

We assume that the legislature's intent is expressed in the statutory language. Extrinsic evidence of legislative intent may become relevant to statutory interpretation in some circumstances, but is not the primary focus of inquiry. It is the enacted law, ***not the unenacted intent***, that is binding on the public. Therefore, the purpose of statutory interpretation is to determine what the statute means so that it may be given its full, proper, and intended effect. (Emphasis added)

Thus, we have repeatedly held that statutory interpretation "begins with the language of the statute. If the meaning of the statute is plain, we ordinarily stop the inquiry." ***Seider***, 236 Wis. 2d at 232; see also ***Setagord***, 211 Wis. 2d at 406; ***Williams***, 198 Wis. 2d at 525; ***Martin***, 162 Wis. 2d at 893-94. Statutory language is given its common, ordinary, and accepted meaning, except that technical or specially-defined words or phrases are given their technical or special definitional meaning. ***Bruno v. Milwaukee County***, 2003 WI 28, ¶¶8, 20, 260 Wis. 2d 633, 660 N.W.2d 656; see also Wis. Stat. § 990.01(1). Context is important to meaning. So, too, is the structure of the statute in which the operative language appears. Therefore, statutory language is interpreted in the context in which it is used; not in isolation but as part of a whole; in relation to the language of surrounding or closelyrelated statutes; and reasonably, to avoid absurd or unreasonable results. ***State v. Delaney***, 2003 WI 9, ¶13, 259 Wis. 2d 77, 658 N.W.2d 416; ***Landis v. Physicians Ins. Co. of Wis.***, 2001 WI 86, ¶16, 245 Wis. 2d 1, 628 N.W.2d 893; ***Seider***, 236 Wis. 2d 211, ¶43.

Statutory language is read where possible to give reasonable effect to every word, in order to avoid surplusage. ***Martin***, 162 Wis. 2d at 894; ***Bruno***, 260 Wis. 2d 633, ¶24. "If this process of analysis yields a plain, clear statutory meaning, then there is no ambiguity, and the statute is applied according to this ascertainment of its meaning." ***Bruno***, 260 Wis. 2d 633, ¶20. Where

statutory language is unambiguous, there is no need to consult extrinsic sources of interpretation, such as legislative history. Id., ¶7; ***Cramer***, 236 Wis. 2d 473, ¶18; ***Seider***, 236 Wis. 2d 211, ¶50; ***Martin***, 162 Wis. 2d at 894; ***Bruno***, 260 Wis. 2d 633, ¶24. "If this process of analysis yields a plain, clear statutory meaning, then there is no ambiguity, and the statute is applied according to this ascertainment of its meaning." ***Bruno***, 260 Wis. 2d 633, ¶20. Where statutory language is unambiguous, there is no need to consult extrinsic sources of interpretation, such as legislative history. ***Id.***, ¶7; ***Cramer***, 236 Wis. 2d 473, ¶18; ***Seider***, 236 Wis. 2d 211, ¶50; ***Martin***, 162 Wis. 2dat 893-94. "In construing or interpreting a statute the court is not at liberty to disregard the plain, clear words of the statute." ***State v. Pratt***, 36 Wis. 2d 312, 317, 153 N.W.2d 18 (1967). The test for ambiguity generally keeps the focus on the statutory language: a statute is ambiguous if it is capable of being understood by reasonably well-informed persons in two or more senses. ***Bruno***, 260 Wis. 2d 633, ¶19; ***Martin***, 162 Wis. 2d at 894. It is not enough that there is a disagreement about the statutory meaning; the test for ambiguity examines the language of the statute "to determine whether 'well-informed persons should have become confused,' that is, whether the statutory . . . language reasonably gives rise to different meanings." ***Bruno***, 260 Wis. 2d 633, ¶21 (second emphasis added). "Statutory interpretation involves the ascertainment of meaning, not a search for ambiguity." ***Id.***, ¶25.

At this point in the interpretive analysis the cases will often recite the following: "If a statute is ambiguous, the reviewing court turns to the scope, history, context, and purpose of the statute." ***Cramer***, 236 Wis. 2d 473, ¶18; ***Setagord***, 211 Wis. 2d at 406; ***Williams***, 198 Wis. 2d at 525.

Sometimes the cases substitute the phrase "subject matter and object of the statute" for the phrase "purpose of the statute" in this litany. ***Ball v. Dist. No. 4, Area Bd. Of Vocational, Technical & Adult Educ.***, 117 Wis. 2d 529, 538, 345 N.W.2d 389 (1984). Either way, this common formulation is somewhat misleading: scope, context, and purpose are perfectly relevant to a plain-meaning interpretation of an unambiguous statute as long as the scope, context, and purpose are ascertainable from the text and structure of the statute itself, rather than extrinsic sources, such as legislative history. Some statutes contain explicit statements of legislative purpose or scope. A statute's purpose or scope may be readily apparent from its plain language or its relationship to surrounding or closely-related statutes——that is, from its context or the structure of the statute as a coherent whole. Many words have multiple dictionary definitions; the applicable definition depends upon the context in which the word is used. Accordingly, it cannot be correct to suggest, for example, that an examination of a statute's purpose or scope or context is completely off-limits unless there is ambiguity. It is certainly not inconsistent with the plain-meaning rule to consider the intrinsic context in which statutory language is used; a plain-meaning interpretation cannot contravene a textually or contextually manifest statutory purpose.

What is clear, however, is that Wisconsin courts ordinarily do not consult extrinsic sources of statutory interpretation unless the language of the statute is ambiguous. By "extrinsic sources" we mean interpretive resources outside the statutory text——typically items of legislative history. ***Sutherland***, § 45:14 at 109. We have repeatedly emphasized that "traditionally, 'resort to legislative history is not appropriate in the absence of a finding of ambiguity.'" ***Seider***, 236 Wis. 2d 211, ¶50 (quoting ***State v. Sample***, 215 Wis. 2d 487, 495-96, 573 N.W.2d 187 (1998)) (quoting in turn, ***Setagord***, 211 Wis. 2d at 406). This rule generally "prevents courts from tapping legislative history to show that an unambiguous statute is ambiguous." Id., ¶51. That is, the rule prevents the use of extrinsic sources of interpretation to vary or contradict the plain

> meaning of a statute, ascertained by application of the foregoing principles of interpretation. Thus, as a general matter, legislative history need not be and is not consulted except to resolve an ambiguity in the statutory language, although legislative history is sometimes consulted to confirm or verify a plain meaning interpretation. ***Seider***, 236 Wis. 2d 211, ¶51-52. Properly stated and understood, this approach to statutory interpretation is not literalistic, nor is it "conclusory" or "result-oriented" in application, as suggested by the chief justice's concurrence. Concurrence of Chief Justice Abrahamson, ¶63.

Issues Presented:

1. Did the Court erroneously exercise its discretion in erroneously interpreting to stretch the applicable Statute, so to become justified in finding Griswold guilty of matters not actually charged?

Not to put to much lipstick on this particular pig, but when the scales of justice take into account what was the Warden Worden's actual citation issued charging Griswold for having violated Wis. Statutes 26.12 (5) (b), and the relatively extreme contortions undertaken by both prosecutor Pozorski and so too, the trial court's analysis/conclusions stated at the end of the trial, it is only under a "reconstruction" of the violation that Griswold's "guilty" conviction could possibly remain permitted to yet stand. . . Griswold was under zero obligation to have "gone legal" within the context of the light banter that occurred between himself and Fire Chief Hackl, particularly when at no time whatsoever, had Chief Hackl indicated to Griswold that Hackl would be determining any such future speculative charges that might have become sought against Griswold's "warming fire" that Griswold was enjoying on May 4th, 2020 just before it was summarily fully extinguished.

Though Griswold takes no truck that Judge VanDeHey had exercised the very best possible good faith in his having conducted the September 3rd, 2020 bench trial of this case, the bottom line remains that absent the gross overreach stretch of the court to have brought into account the wholly extraneous factors of both the extensive timber protected area by more usual burning permits issued only during the months of June through December, much less that in his considered opinion, when someone was working on the cool evening of the early spring day of May 4th, that somehow, the arsonist was not permitted to have enjoyed the radiant heat given off by their fire, the clear, convincing, satisfactory evidence presented to the court was that Griswold, charged with having violated the crime described pursuant to a citation issued against him for violating Wis. Statutes Chapter 26.12 (5) (b), was in fact peaceably acting within his statutorily provided civil rights to have so enjoyed the heat of his evening's fire, and so controlled, neither the Muscoda Fire Department, nor the Wisconsin Department of Natural Resources Warden Worden, much less prosecutor Pozorski and the trial court retained having any arguable "colorable" basis in the law to find Griswold guilty as was so charged, in the amount of anything, much less the $175.30 demanded. The trial court's decision was based upon an erroneous exercise of its discretion and now requires reversal for all of the above reasons so given, that on May 4th, 2020, Griswold's enjoying his private citizen's right to be warmed by his personal fire that evening was NOT in violation of any such law written to have entirely precluded the full course of an uninterrupted such experience.

2. Did Warden Worden legitimately issue the citation without having had any actual personal knowledge of the actual alleged infraction?

Warden Worden's testimony provided in the record of this trial documented that at the time of her issuance of the citation given Griswold, Worden didn't even have personal subject knowledge as to which one, if actually even any, was the offending residue left after the offending "burn" conducted on May 4th, 2020. Notwithstanding Griswold's having made the effort to have returned her voice mail call on two different occasions, Warden Worden literally "jumped the gun" to have cited Griswold without having any such realization as to which picture previously taken, was depictive of the actual burn event that occurred on May 4th, 2020. Absent Warden Worden's having spoken directly with Griswold, to have at the least, first given Griswold any possible benefit of the doubt as to what were his intentions taken that evening of May 4th, 2020, Warden Worden's having found Griswold "guilty" of having violated Wisconsin Statutes 26.12's section (5) (b)'s provisions was clearly an erroneous exercise of her professional discretion.

3. Did the State's prosecutor Pozorski NOT readily fully concede Griswold's absolute complete innocence?

Pozorski's having literally volunteered his admission made against the State's interest, to the effect sua sponte so stated that:

> ". . .and had he told that to the fire people there that night, that would be an entirely different story. . .: R-15:23-16:1.

rather accurately best fully summarized what ought to have been found as was the entirety of the actual fact of the controlling circumstances that had occurred within the context of the May 4th, 2020 evening's fire. . . Griswold, presumed "Not Guilty" until proven otherwise, had had zero obligation to have even spoken with First Chief Hackl, much less spontaneously have volunteered to Chief Hackl precisely what all was the circumstance of Griswold's evening's fire being enjoyed prior to its extinguishment. Griswold's "story", much less the facts governing this violation incident never changed, whether it was during the initial visit and extinguishment, nor later when Warden Worden failed to have ever bothered to have returned any one of Griswold's multiple efforts made to have respected her initial inquiry made of him. Warden Worden's direct testimony given under oath and penalty of perjury had stated that:

1. ". . . and eventually issued him a citation for burning without a permit in the extensive fire area." R-8 7:7-9;

2. Q. Does that have anything to do with COVID-19?
   A. It does not. R-8 7:12-14;

3. "So in short, in that area you need a burn permit from January 1st through the end of May. Greg Griswold did not have a burn permit. R-8 7:21-23.

Once again referring back to the controlling governing statute Griswold was cited for having violated its' provisions, the exception Griswold had relied upon, in having pled his "Not Guilty" plea, explicitly had explicitly unequivocally been adopted as having so stated that:

> ". . . No person may set any fire ***except for warming the person*** or cooking food ***within the limits of any extensive forest protection area at any time during January through May*** . . ."

such that in no possible event whatsoever, had Warden Worden acted within the scope of the governing controlling statute, as to have ever been at all justified for having cited Griswold as having wilfully violated that exact same statute as it had become so previously written and adopted by Wisconsin's legislature.

Conclusion:

Wherefore, Griswold prays that this Court of Appeals will more accurately discern that the actual statute Griswold was charged as having violated, had instead, explicitly carved out a notable exception that personal fires utilized for warming or cooking purposes, such that, even within a controlled area, such persons do NOT ever require possession of an actually issued and approved "burning permit", as a controlling condition to enable the citizen's privilege of the legislatively provisioned right to be found as warming himself of the fire's radiant heat so then being so provided.

Respectfully submitted this 16th day of November, 2020 by:

Greg Griswold, Defendant-Appellant *pro se*
637 West Pine Road
Muscoda, WI 53573
608-475-9614

FORM AND LENGTH CERTIFICATION:

I hereby certify that this brief conforms to the rules contained in Sec. 809.19 (8) (b) and (c) for now having submitted a brief having been produced with a 13 point proportional serif font. The length of this brief, as was counted to have been determined by my word processing software, came out to have been calculated as being written with exactly 6,441 words, as submitted.

Respectfully submitted this 16th day of November, 2020 by:

Greg Griswold, Defendant/Appellant *pro se*
637 West Pine Road, Muscoda, WI 53573 608-475-9614