

STATE OF WISCONSIN
C O U R T O F A P P E A L S
DISTRICT IV
Case No. 2020AP1949

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CLERK OF COURT OF APPEALS
OF WISCONSIN

STATE OF WISCONSIN ex rel.
DELOREAN BRYSON,
Petitioner-Appellant,

V.
CATHY JESS,
Respondent-Respondent.

APPEAL FROM A FINAL ORDER OF THE
DANE COUNTY CIRCUIT COURT, THE HONORABLE
Peter Anderson PRESIDING

REPLY BRIEF OF PETITIONER-APPELLANT

DELOREAN BRYSON
DOC#487033
GREEN BAY Corr. Inst.
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ARGUMENT

I. LIBERAL CONSTRUCTION.

[The] Courts hardly demand of a layman and pauper who draws his [brief] behind prison walls the skill of one trained in the law" Tomkins v. Missouri, 323 U.S. 485, 487-88, 65 S.Ct. 370, 89 L.Ed 407 (1945)

A pro se litigant's pleadings are to be construed liberally and held to a less stringent standard than formal pleadings drafted by lawyers Haines v. Kerner; see also Estelle v. Gamble, 429 U.S. 97, 106, 97 S.Ct. 285, 292, 50 L.Ed .2d 251 (1976) As The Court noted in Osagiede v. United States, 543 F.3d 399, 405(7th circuit 2008), pro se litigants "will at times confuse legal theories or draw the wrong legal implications from a set of facts [b]ut [this] court [m]ust not treat every technical defect as as a grounds for rejection". Rather the question for [t]his Court is whether the brief adequately presents the legal and factual basis for the claim, even if the precise legal theory is inartfully articulated or more difficult to discern". Ambrose v. Roeckeman, 749 F.3d 615(7th cir. 2014)(citing Osagiede).

II. WISCONSIN STATUTE §973.05(4)(B) AND PETITIONER-APPELLANT'S

JUDGMENT OF CONVICTION(JOC) DOES PRECLUDE THE DOC FROM DEDUCTING AT A RATE OF 50 PERCENT.

The Wis. Stat. §973.05(4)(b) and Petitioner-Appellant JOC does preclude the DOC from deducting funds out of his trust account at a rate of 50 percent for DNA surcharges, fees, court-costs, etc... Prior to the passing of 2015 Wis. Act. 355(ACT 355) the DOC leaned heavily on WI Stat §973.05(5)(b) to set the deduction rate for Thirty plus years. Any defendant who was sentenced under chapter 973 of the WI. Stat. since the 1980's, which the ~~Wis.~~ law held that the DOC only take 25 percent. There is no argument that the DOC has the authority to deduct funds out of prisoners account see State ex rel. Markovic v. Litscher, 383 Wis.2d 576 at 14. There is no argument there, the issue remains did the DOC

have the authority that it think it does to deduct funds out Petitioner-Appellant trust account at 50 percent? No. The DOC Contrary to the state's contention, Wis. Stat. §973.05(4)(b) does not just limit the clerk of circuit court "(State's Br. at 18) where else did the Department get the idea to take 25 percent for deductions, they did not just come up with it out of thin air. All JOCs endorse Wis. Stat. 973 and the DOC accepted.

In his brief counsel asserts that the Petitioner-Appellant JOC do not cap at 25%(State's Br. at 19) when in fact it do(R. 13:6) the JOC reads "to be collected by DOC from 25 percent of prison funds" it does not say or more. Therefore making it capped at 25%, no other language suggest otherwise. As counsel in his forked approach asserts that the DOC has and has all along had the authority to set, if it wishes raise, the rate deductions for resitution and surcharge.(State Br. at 17fn) In support of this contention counsel cites Wis. Stat. §§ 303.01(8), and 301.32(1) (Id.) But do either of these statutes contain explicit language authorizing the DOC to determine or set percentages as infers? Both §§ 303.01 and 301.32 are generalized statutes that allow the DOC to receive and disburse monies on behalf of inmates.

Were it not for these statutes inmates would not be able to receive money from family, friends or outside sources, or be able to spend or buy anything with same. while they also allow court obligations to be paid from inmates monies, neither statute addresses "rate" or percentage. In fact, § 303.01, Stats., has only to do with "prison industries", which counsel cites, it only authorizes disbursement of an inmate's "earnings" (from prison jobs--in this case industry jobs), not from his other monies such as respondent is and continues deduct from. So while counsel tries convincing the Court this statue authorizes the respondent's actions, in reality respondent is violating the self-same statute by deducting from petitioner's monies other than prison wages.

III. Petitioner ask this Court to also include arguments from Circuit Court brief/petition as well.

The petition ask that this Court include the same arguments from his Circuit Court brief/ petition as well because he does not want anything to be left out that could possibly give wait, to the issue at hand.

IV. Stay and remand to the Circuit Court.

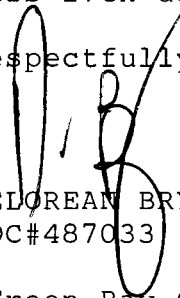
If need be push comes to shove if this Court feels that I did not present an issue in the beginning stage. He ask that he be a;;ow saty and remand so he can properly bring those issue(s) up properly.

CONCLUSION

For all of the reasons set forth above, and in his brief-in-chief as well in the petition, Mr. Bryson respectfully requests that this Court reverse the Respondent decision finding they act outside of their jurisdiction and not according to law.

Dated this 17th day of August, 2021.

Respectfully submitted,



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