

Racine County Jail
717 Wisconsin Ave
Racine, WI 53403
Case No. # 20CF000324
2021AP 187-CRLV

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CLERK OF COURT OF APPEALS
OF WISCONSIN

June 23, 2021

To Whom it may Concern:

I Am truly indigent and unable to afford the copies to send 10 copies to the Supreme Court. The copies here at Racine County Jail are \$4.25 a copy and is reflected on my inmate account statement. I Am requesting the Court to accept my Petition For Review as is because under the circumstances I am unable to do any better not only because I am in the County Jail But because of the disadvantages of Being a Pro se Litigant. Thank you for your Attention into this matter.

Respectfully
Samuel Burnette

SB

June 23, 2021

FILED

JUN 28 2021

CLERK OF SUPREME COURT
OF WISCONSINSTATE OF WISCONSIN
SUPREME COURTCase No. 20CF000324
2021AP787-CRLVState of WisconsinRespondent

(party designation, for example appellant or respondent)

v.

Samuel BurnetteAppellant

(party designation, for example appellant or respondent)

PETITION FOR REVIEW

Name: Samuel Burnette # 78515

State Bar No., if applicable: _____

Address: 717 Wisconsin Ave, Racine, WI 53403

Telephone No.: _____

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Petition for Review

Samuel Burnette Appellant hereby petitions the Supreme Court of the State of Wisconsin, Pursuant to Wis Stat § 808.10 and Wis Stat § (Rule) 809.62 to Review the Decision or order of the Court of Appeals, District 2, in 2021AP787-CRLV Case No. 20CF000324, Filed on May 24, 2021 and June 8, 2021.

Issues Presented for Review

The issues presented for review are:

- 1) Does the Circuit Court lose Personal Jurisdiction for Failing to have a timely preliminary hearing pursuant to Wis Stat § 970.03(2)?
- 2) Can the Circuit Court Withdraw the defendants demand for a Speedy trial and reassert the demand for a Speedy trial for a defendant over the defendants Objection? Does this constitute a violation of the Statutory right to a Speedy trial?
- 3) Can a judge in Wisconsin make invalid a marriage or Common Law Marriage established by another States Law? In essence violating the defendants right to Spousal privilege pursuant to Wis Stat § 905.05?
- 4) The Defense requested sanctions pursuant to Wis Stat § 971.23(7M) Because Exculpatory evidence was not preserved when the police didn't collect DNA From

the 2 males that A.G. Slept in the bed with especially since one of those males shared DNA with the Defendant, was collection of this DNA evidence a violation of the defendant's state and federal rights to present a defense?

The Court of Appeals decided the issues as follows; on May 24, 2021 Pursuant to Wis Stat § 808.03(2) the court did not feel that the issues met the criteria to grant the leave.

On June 8, 2021 The Court Of Appeals ruled that the motion did not persuade the court that reconsideration was warranted.

Brief Statements of Criteria for Review

1) The reasons the Court should grant review are, pursuant to Wis Stat § 809.62(1r)(c)(3) and 809.62(1r)(d) Loss of personal Jurisdiction is an issue that is becoming more and more common as the State Public defenders Office has been used as scapegoats to justify not having a timely preliminary hearing. This issue stands to have state wide implications and establish a clear message to the Circuit Courts that failing to have a preliminary hearing does cause the court to lose Personal Jurisdiction. Even if Corona Virus was used as the reason for the delay there may be conflicts with Federal to delay any Court proceedings other than Jury Trial.

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- 2) Pursuant to Wis Stat § 809.62 (12)(c)(3) the circuit court withdrew a Speedy trial Demand over the objection of the defense and then reasserted the Speedy trial Demand for the defense, violating the statutory right to a speedy trial pursuant to 971.10(2), and Denial of the remedy pursuant to 971.10(4)
- 3) Pursuant to Wis Stat § 809.62 (12)(b) the issue of common law marriage or domestic partnership established by another states laws should not be made invalid in order to deny a defendant the right to invoke spousal privilege, because those laws are not the same as Wisconsin State laws.
- 4) Pursuant to Wis Stat § 809.62 (12)(a) Failure to preserve exculpatory evidence is seen as a violation of the 14th Amendment of the Constitution. Clarification is needed to create a clear explanation of what exculpatory evidence is and the responsibility of law enforcement to preserve all evidence at a crime scene.

Statement of Fact

On March 13, 2020 Samuel Burnette was charged with 948.25(1)(e) Sexual contact with a child under 13. Initial appearance was on March 30, 2020. A status hearing was scheduled for May 28, 2020 Not a preliminary hearing. On April 1, 2020, Attorney Grant Henderson was assigned to the case. On May 11, 2020 A Bond hearing was held to modify the Defendants Bond, in Judge Faye Flanchers Courtroom. On May 21, 2020 a preliminary hearing was scheduled for May 28, 2020. Attorney Grant Henderson never raised the issue of Loss of Personal Jurisdiction. Burnette filed several Pro Se motions to try to address the issue, none of them were heard. On August 27, 2020 After Attorney Henderson failed to address the Loss of personal Jurisdiction claim and a violation of statutory right to

Speedy trial, he withdrew from the case. Once Burnette was not represented by counsel several motions were filed again to address the loss of personal jurisdiction, these motions were ignored. On January 11, 2021 a Demand for Speedy trial was filed with the Racine County Clerk of Circuit Court. On January 15, 2021 Burnette's motion to proceed pro se was granted. On March 19, 2021 23 days before Burnette's right to a speedy trial was to expire pursuant to Wis Stat § 971.10(2) Judge Wynne Laufenberg withdrew Burnette's Speedy trial Demand and reasserted it. A motion hearing was set for April 26, 2021 and a trial date was scheduled for June, 2021. At the motion hearing the court heard four motions: Motion to dismiss for loss of personal jurisdiction, sanctions concerning exculpatory evidence, spousal privilege and violation of statutory right to speedy trial. All motions were denied by the court. An interlocutory appeal was filed and was denied on May 24, 2021 because the court felt the criteria had not been met or satisfied. Petition for reconsideration was filed on June 8, 2021 that motion was denied because the motion did not persuade the court that reconsideration was warranted. Burnette was found guilty by a jury on June 4, 2021.

Argument

1) The loss of personal jurisdiction issue is at this time an issue that so many in Racine County deal with because of the inability of the State Public Defenders office to assign counsel to so many accused. In recent rulings like Lee 2018CF1025, 2019AP221-CR Even failure by the SPD to assign counsel was not enough to violate the rights of the accused to a timely preliminary hearing. The other issue concerning loss of personal jurisdiction in this

case is did the Court commissioner rule Contrary to federal Law when she tried to use Covid-19 pandemic as a reason to violate the rights of Burnette. The "Cares Act" H.R. 748 provided Funds and directions to the Lower courts to proceed timely up to the Jury trial phase of the proceedings. Standing orders Where issued By Judge P Peppers 2:00-5:00-01000 NO-6 saying that teleconferencing and Video Conferencing should be used when possible to insure that the courts continue to function despite the National pandemic. In Legislature v. Andrea Palm 2020 AP 765-0A the Supreme Court ruled loud and clear when it stated several times that the national pandemic was not Accused to be used to violate the laws or rights of the people.

2) Spousal privilege is a right Created in order for the married party to Be able to communicate with his or her spouse without fear of prosecution. Burnette's marriage was not established by Wisconsin state Law and should not be measured by Wisconsin state Law. Clarity in this matter is essential in our ever changing Society where partnerships and Marriage are being redefined.

3) Now that Speedy trials are back on the statutory right to them must be enforced. I have found nowhere in Case Law or in Statute Where a judge can Withdraw a demand for a Speedy trial on behalf of a defendant and reassert this right. to avoid the circuit Court from over stepping its Judicial Authority and acting as a Defendants Attorney or giving the defendant Legal advice. I request the Supreme Court to make clear if the Court can Withdraw a defendants Demand for a Speedy trial.

4) Failure to Preserve exculpatory evidence is A violation of the Due Process clause of the Fourteenth Amendment of the

Constitution and is confirmed in cases like Weissinger 355 Wis 2d 546 the evidence could not be preserved by the defense, I request the Supreme Court to make clear that even if the evidence is not favorable to the state it still should be collected and preserved by the police to ensure a fair and just criminal justice system.

June 21, 2021

Samuel Burnette #78515

SB

717 Wisconsin Ave

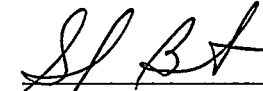
Racine, Wis 53403

FORM AND LENGTH CERTIFICATION

I hereby certify that this brief conforms to the rules contained in §809.19(8)(b) and (c) for a brief produced with a [choose one] ☐ monospaced or ☐ proportional serif font.

The length of this brief is 8 pages [if a monospaced font is used] or no more than 8100 words [if a proportional serif font is used].

Date: June 22, 2021



Signature

Notes:

This form and length certification must be included at the end of each brief. See also Wis. Stat. § (Rule) 809.50(4), 809.51(4) and 809.62(4) for additional form and length requirements.

Examples of fonts acceptable under §809.19(8)(b):

A monospaced font must be 10 characters per inch; double-spaced; a 1.5 inch margin on the left side and 1 inch margins on all other sides. This font is Courier New-12.

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