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**CLERK OF COURT OF APPEALS
OF WISCONSIN**

STATE OF WISCONSIN
COURT OF APPEALS
DISTRICT IV

Christopher P. KAWLESKI
Appellant,

v.

Case No. 2022AP001129
Cir. Ct. Case No. 2001CF000043

STATE of Wisconsin
Respondent.

ON APPEAL FROM JEFFERSON COUNTY CIRCUIT COURT,
BRANCH 1, HABEAS CORPUS PETITION FOR RELEASE FROM ALL
DEPARTMENT OF CORRECTIONS CUSTODY AND CONTROL

TO: Sheila Reiff - Clerk of Court
Court of Appeals - District IV
110 East Main Street, Suite 215
Box 1688
Madison WI 53701-1688

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STATE OF WISCONSIN
COURT OF APPEALS
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Christopher P. KAWLESKI
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STATE of Wisconsin
Respondent.

APPELLANT'S BRIEF

STATEMENT OF ISSUES

- I. Was Kawleski charged with and convicted of any crimes other than the original charge and conviction in case 2001CF000043 (01CF43)? No.
- II. Can the State (Probation Officer (PO) or anyone involved in Kawleski's case) describe the process by which Kawleski's substantive due process, procedural due process, and equal protection rights were adhered to before, during, and after his revocation on November 28, 2018, and were his Miranda rights ever read to him? No.
- III. Is Department of Corrections (DOC) staff aware that Kawleski is being held in their custody past his maximum discharge date of June 19, 2021? Yes.

STATEMENT OF FACTS

NOW COMES, Appellant Christopher P. Kawleski, Pro Se, whom hereby petitions this HONORABLE COURT for immediate release from all Department of Corrections (DOC) custody and control pursuant to Wis. Stat. § 782.01(1), which reads,

“Every person restrained of personal liberty may prosecute a writ of habeas corpus to obtain relief from such restraint subject to ss. 782.02 and 974.06.”

Having exhausted all administrative remedies, Kawleski has no other recourse but to look to the Court for relief. (See exhibit 3). Kawleski alleges and shows to the Court the following facts in support of this petition:

- I. Kawleski was not charged with nor convicted of any crimes other than the original charge and conviction in case 2001CF000043.
 - a. Kawleski was convicted in case 2001CF000043 and the sentencing Court imposed a 20 year, determinate, bifurcated sentence, which consisted of 2½ years of initial prison confinement followed by 17½ years of extended supervision (ES), on June 19, 2001, (See exhibit 1) pursuant to Wis. Stat. §973.01(2), which reads, in relevant part,

“Structure of bifurcated sentences. A bifurcated sentence is a sentence that consists of a term of confinement in prison followed by a term of extended supervision under s. 302.113. The total length of a bifurcated sentence equals the length of the term of confinement in prison plus the length of the term of extended supervision.”

This Court held that,

“[E]xtended supervision is part of the total sentence visited upon a defendant.”
State v. Galvan, 2007 WI App 173, ¶ 11, 304 Wis.2d 466, 736 N.W.2d 890.

Wis. Stat. § 973.01(8)(a)1., reads, in relevant part,

“Explanation of sentence. When a court imposes a bifurcated sentence under this section it shall explain in writing [...] to the person being sentenced:[...] The total length of the bifurcated sentence.”

and, is defined under Wis. Stat. §973.15(2m)(a)1., which reads, in part,

“Determinate sentence” means a bifurcated sentence imposed under s. 973.01 [...].”

- b. The following sections clarify the limits set forth by the legislature and the sentencing court for Kawleski's bifurcated sentence. Wis. Stat. § 973.01(2)(b)1. reads,

"For a Class B felony, the term of confinement in prison may not exceed 40 years."

Kawleski's Judgment of Conviction (JOC) sets this limit at 20 years. Wis. Stat. § 973.01(2)(d)1. provides,

"For a Class B felony, the term of extended supervision may not exceed 20 years."

Kawleski's JOC sets this limit at 17½ years. Wis. Stat. § 973.01(6) clarifies,

"No parole. A person serving a bifurcated sentence imposed under sub. (1) is not eligible for release on parole under that sentence"

meaning there is no 'street-time,' as defined by Black's Law Dictionary, and an offender cannot lose the time served on ES as DOC officials assert. It is interesting to note, a troublesome inmate that is compelled to serve more time in confinement before release, is not penalized with having his sentence length increased. Wis. Stat. § 302.113(3)(d) reads,

"If the term of confinement in prison portion of a bifurcated sentence is increased under this subsection, the term of extended supervision is reduced so that the total length of the bifurcated sentence does not change."

- c. Kawleski's sentencing transcript clarifies the intent of the Court so there is no doubt of his sentence structure. (See exhibit 2). Sentencing transcript, page 37, lines 17 - 20, the Court pronounced sentence:

"My extended supervision here would be a prison term of 20 years with the initial confinement in prison at 2 years, 6 months with there being 17 years and 6 months of extended supervision."

On page 41, lines 8-13, the Court continued:

"While you are under extended supervision, you are subject to certain conditions. If you violate those conditions, you may be returned to prison to serve not more than the time remaining on your sentence. The time remaining on your sentence is the total length of your sentence less any time served in custody."

There is no disputing the fact that time spent in confinement is custody, but state law describes another form of custody. Wis. Stat. § 302.113(8m)(a) provides,

“Every person released to extended supervision under this section remains in the legal custody of the department.”

and,

“United States Supreme Court precedent leaves “no doubt” that in addition to physical imprisonment, there are other restraints on liberty that are considered “custody for habeas corpus purposes—including post-release supervision:

History, usage, and precedent can leave no doubt that, besides physical imprisonment, there are other restraints on a man's liberty, restraints not shared by the public generally, which have been thought sufficient in the English-speaking world to support the issuance of habeas corpus.

Jones v. Cunningham, 371 U.S. 236, 240 (1963); see also *Earley v. Murray*, 451 F.3d 71, 75 (2d Cir. 2006) (“[p]ost-release supervision, admitting the possibility of revocation and additional jail time, is considered to be ‘custody’ for the purposes of habeas corpus.” *State ex rel. Singh v. Kemper*, 2016 WI 67, ¶ 70, 371 Wis.2d 127, 883 N.W.2d 86.

- d. Issues related to the Division of Community Corrections (DCC), an executive state agency, not following its own rules and state statutes/constitutional provisions to facilitate a bifurcated sentence, extended supervision revocation, for a return of Kawleski to prison for a period of nearly 5 years. Kawleski believes, but leaves it up to the Court to determine, that any one of these issues is grounds to negate his revocation that occurred in November of 2018 and render it of no effect based on the holdings in *Vitarelli v. Seaton*, 359 U.S. 535, 540, 79 S. Ct. 968 (1959):

“Preliminarily, it should be said that departures from departmental regulations in matters of this kind involve more than mere consideration of procedural irregularities. For in proceedings of this nature, in which the ordinary rules of evidence do not apply, in which matters involving the disclosure of confidential information are withheld, and where it must be recognized that counsel is under practical constraints in the making of objections and in the tactical handling of his case which would not obtain in a cause being tried in a court of law before trained judges, scrupulous observance of departmental procedural safeguards is clearly of particular importance.”

And,

“An executive agency must be rigorously held to the standards by which it professes its action to be judged.” See *Securities Exchange Comm'n v. Chenery Corp.*, 318 U.S. 80, 87-88.

Additionally,

“This judicially evolved rule of administrative law is now firmly established and, if I may add, rightly so. He that takes the procedural sword shall perish with that sword. Therefore, I unreservedly join in the Court's main conclusion, that the attempted dismissal of Vitarelli in September 1954 was abortive and of no validity because the procedure under Department of the Interior Order No. 2738 was invoked but not observed.” *Vitarelli v. Seaton*, 359 U.S. 535, 547, 79 S. Ct. 968 (1959).

See also US Const. Art. I § 9, Art. VI, Amends. IV-VIII, & XIV § 1; Wis. Const. Art. I §§ 5, 6, 7, 8, 11, & 12.

- i. Illegal search/seizure of Palmyra Storage LLC unit rented by Industrial Service Co., Inc. (ISCO, Inc.) – this was not a search of Kawleski’s home or property owned by Kawleski. ISCO, Inc. and Palmyra Storage LLC are separate entities not under the authority of the Department of Corrections. It is Kawleski’s understanding that agents from the Department of Corrections were required to obtain a search warrant and be accompanied by a police officer prior to conducting any search of the premises located at 949 West Main Street, Palmyra, WI 53156, which is NOT Kawleski’s home address and is wholly owned by someone other than Kawleski. Kawleski understands these legal requirements were ignored. (See Wis. Admin. Code §§ DOC 328 & 331; US Const. Amends. IV-VIII; Wis. Const. Art. I § 11; Exhibits 47-52)
- ii. Brian Hayes, Administrator of the Division of Hearings and Appeals, who signed Kawleski’s Reincarceration/Reconfinement Order, was the very person who actually submitted a revocation hearing waiver to the Department of Corrections on behalf of Kawleski, a clear conflict of interest, without Kawleski’s knowledge or consent, to the Department of Corrections. This is

in evidence by the date stamp on the hearing waiver document and correspondence letters indicating that is what happened. (See exhibits 6-20). Kawleski never sent a copy of any such document to the Department of Corrections. Kawleski's agent did not verify with Kawleski what his intent was regarding the waiver submitted by Brian Hayes. It is stamped ONLY with "received by the division of hearings & appeals" NOT the Department of Corrections. The DOC must only receive such a waiver from Kawleski himself or his attorney, and his agent is responsible for determining whether the hearing waiver is being made voluntarily and with full knowledge of the consequences pursuant to applicable DOC Administrative Code and policies detailed in the ECRM (Electronic Case Reference Manual revised in 2019, Pages 478-480). Brian Hayes is not part of the Department of Corrections, as he and his staff so clearly articulated to Kawleski in their letters, nor was he Kawleski's attorney as Kawleski is self-represented. (See exhibits 6-19).

- iii. The entirety of the reason for the DOC to remove Kawleski from his home, business, treatment and life, was allegedly to protect society and place Kawleski in a secure environment for treatment. This argument falls flat since, not only did Kawleski NOT receive treatment at all while in prison for nearly 5 years, through no fault of his own, but his risk level dropped from high to low throughout the duration of his incarceration WITHOUT ANY TREATMENT AT ALL. Stacey Bieberitz' claim was a fraud and unfounded. Kawleski's entire life was literally destroyed for no legitimate government purpose. (See exhibit 53).

e. Aside from the obvious issues with the revocation listed in the preceding pages, after the fact, the DOC, an executive branch agency, is extending the total length of Kawleski's bifurcated sentence contrary to law and justice. In *State v. Dums*, 149 Wis.2d 314, 321, 440 N.W.2d 814 (1989), this court held,

"Wisconsin's separation-of-powers principle prohibits a substantial encroachment by one branch of government on a function that has been delegated to another branch." *State ex rel. Unnamed Petitioners v. Commors*, 136 Wis.2d 118, 121, 401 N.W.2d 782, 783 (1987).

and

"A statute may not allow one branch of government to unduly burden or substantially interfere with another branch's exercise of authority." *Id.* at 122, 401 N.W.2d at 783-84.

In *Racine Fire and Police Commission v. Stanfield*, 70 Wis.2d 395, 399, 234 N.W.2d 307 (1975), the court held,

"It is the general rule that an agency or board created by the legislature has only those powers which are either expressly conferred or which are by necessity, to be implied from the four corners of the statute under which it operates. *State ex rel. Farrell v. Schubert* (1971), 52 Wis.2d 351, 190 N.W.2d 529; *Ford v. Wisconsin Real Estate Examining Board* (1970), 48 Wis.2d 91, 179 N.W.2d 786; *American Brass Co. v. State Board Health* (1944), 245 Wis. 440, 15 N.W.2d 27. The effect of this rule has generally been that such statutes are strictly construed to preclude the exercise of a power which is not expressly granted. See 3 Sutherland, *Statutory Construction* (4th ed.), p. 150, sec. 65.02."

Clearly, the DOC does not have the authority to add extended supervision to a sentence which is akin to probation. This is in evidence in the plain language of Administrative Code § DOC 328.09(1) which reads,

"Extension of probation. Department recommendation. The department may recommend that a court extend the probation period under s. 973.09(3)(a), stats."

The DOC is requiring that Kawleski re-serve the time previously served and spent in the status of ES again in prison after his ES was revoked. This modification of the original sentence imposed by his sentencing court is clear in the plain language of his sentencing transcript, Wis. Stat. § 973.01(2), and the modification of his maximum discharge date on the offender data sheet, Form DOC-172, in his file. Kawleski is not sure, but believes this may be a

Bill of Attainder and/or Ex-Post-Facto violation. (See US Const. Art. I § 9, Amends. V-VIII; Wis. Const. Art. I §§ 5-8, 11 & 12; Exhibits 2 and 29).

- f. The DOC uses the language in Wis. Stat. § 302.113(9)(am) to extend the total length of a bifurcated sentence contrary to Wis. Stat. § 973.01. The only provision that exists to extend the total length of a bifurcated sentence beyond statutory maximums is Wis. Stat. § 973.01(2)(c) titled, “Penalty enhancement.” This section lists all of the penalty enhancement statutes. No part of Wis. Stat. § 302.113 is in this list, and therefore cannot be used for the purpose of extending a bifurcated sentence. In *Doe v. American Nat. Red Cross*, 176 Wis.2d 610, 616, 500 N.W.2d 264 (1993), the court, citing *Kelley Co., Inc. v. Marquardt*, 172 Wis.2d 234, 247, 493 N.W.2d 68 (1992) held,

“In ascertaining a statute’s meaning, our first inquiry is to the plain language of the statute. *Id.* If the language of the statute clearly and unambiguously sets forth the legislative intent, it is the duty of the court to apply that intent to the case at hand and not look beyond the statutory language to ascertain its meaning.” *Id.*

The court, in *State ex rel. Kalal v. Circuit Court for Dane County*, 2004 WI 58, ¶ 46, 271 Wis.2d 633, 681 N.W.2d 110, held,

“[S]tatutory 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 closely-related 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; *Sieder*, 236 Wis.2d 211, ¶ 43, 612 N.W.2d 659.

Wis. Stat. § 973.01, the “bifurcated sentence” statute, is clear as written and cannot be overridden by Wis. Stat. § 302.113, the “extended supervision” statute.

- g. DOC officials are acting contrary to Wis. Stat. § 973.01, Wis. Const. Art. I § 5-8, and the US Const. Amends. V & XIV § 1, by using Wis. Stat. § 302.113(9)(am) to arbitrarily increase the length of Kawleski’s bifurcated sentence.

“WIS. STAT. § 973.01(2)(c) does not authorize a sentencing court to impose any portion of a penalty enhancer as extended supervision.” *State v. Volk*, 2002 WI App 274, ¶ 36, 258 Wis.2d 584, 654 N.W.2d 24.

In *State v. Lasanske*, 2014 WI App 26, ¶ 7, 353 Wis.2d 280, 844 N.W.2d 417, the court held,

“Only after determining an appropriate bifurcated sentence in compliance with the limits imposed by WIS. STAT. § 973.01(2)(b) and (d) does the court add a penalty enhancer to a felony sentence. See § 973.01(2)(c)1. Under subd. (2)(c)1., the court adds the enhancer to the confinement portion, which increases the total length of the bifurcated sentence by the same amount.” *State v. Jackson*, 2004 WI 29, ¶ 30, 270 Wis.2d 113, 676 N.W.2d 872.

The DOC is not the Court and § 302.113 is not an enhancement statute, yet DOC officials add additional confinement and extended supervision time to offender’s sentences as they have in Kawleski’s case, contrary to law. The Supreme Court of the United States has held,

“Other than the fact of a prior conviction, any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt.” *Apprendi v. New Jersey*, 530 U.S. 466, 490, 120 S.Ct. 2348, 147 L.Ed.2d 435.

In short, Kawleski’s sentence terminated on June 19, 2021. For prior incarcerations, and the current revocation on November 28, 2018, Kawleski was taken into custody by his PO for allegations that led to investigations by the DOC. No charges were ever filed against Kawleski during the entire 20 year service of his bifurcated sentence.

- II. The State (PO or anyone involved in Kawleski's case) cannot describe the process by which Kawleski's substantive due process, procedural due process, and equal protection rights were adhered to, before, during, and after, the revocation of his ES on November 28, 2018, nor were his Miranda rights ever read to him.
 - a. Based on a letter Kawleski received from his PO dated November 13, 2018, Kawleski mailed a revocation hearing waiver to the Division of Hearings and Appeals. This letter was in response to a request Kawleski had sent to his PO from the jail. (See exhibits 4, 5, and 6). In her letter there was no mention

- of waiving his right to “due process,” something Kawleski would never knowingly give up. Admittedly, Kawleski is not an attorney and without any resources, had to go through this situation alone and did not understand as much as he does now about the law and the process. (See US Const. Amends. V & XIV § 1; Wis. Const. Art. I § 5-8 & 12.)
- b. Kawleski sent multiple requests to have the waiver rescinded, but all requests were denied by several individuals in their official capacities. (See exhibits 7-18).
 - c. Kawleski did not send a revocation hearing waiver to the DOC or to his PO, the only 2 entities that can process such a waiver. A waiver cannot be accepted by the agent if there is a doubt of an offenders ability to make a competent decision, as is clear in Kawleski’s case. (See US Const. Amends. V & XIV § 1; Wis. Const. Art. I §§ 5-8 & 12; Exhibit 19).
 - d. The same person who submitted Kawleski’s revocation hearing waiver to the DOC, also signed the reincarceration order and sustained the Administrative Law Judge’s reconfinement order of 4 years, 7 months and 26 days, a decision Kawleski had appealed, which is a clear conflict of interest and apparent bias on the part of Brian Hayes, Administrator of the Division of Hearings and Appeals. By sustaining that decision, Brian Hayes illegally increased the total length of Kawleski’s bifurcated sentence. At no time was Brian Hayes acting on Kawleski’s behalf when he submitted the revocation hearing waiver to the DOC. Brian Hayes acted of his own volition and in his official capacity as Administrator. (See US Const. Amends. V & XIV § 1; Wis. Const. Art. I §§ 5-8 & 12; Exhibits 7, 12, 14, and 20).
 - e. Kawleski was taken to county jail, after the results of a polygraph he submitted to were inconclusive on April 25, 2018, by his PO, Stacey Bieberitz and an assisting PO, David Kaczmarek. Kawleski was placed in a small room and questioned under duress by the agents without having his

Miranda rights read to him. In *Miranda v. Arizona*, 384 U.S. 436, 448, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966), the court held,

“Again we stress that the modern practice of in-custody interrogation is psychologically rather than physically oriented. As we have stated before, ‘Since *Chambers v. State of Florida*, 309 U.S. 227, 60 S.Ct. 472, 84 L.Ed. 716, this Court has recognized that coercion can be mental as well as physical[.]’”

f. As a member of the community in good standing, Kawleski was running his business, Industrial Service Co., Inc., FEIN 39-1868897, with gross annual sales of approximately \$300,000. Kawleski was not involved in criminal activity but focused his time and energy on running and building his business, attending therapy, keeping in contact with family, and generally moving forward with his life.

III. Department of Corrections staff is aware that Kawleski is being held in their custody past his maximum discharge date of June 19, 2021.

The following information is primarily regarding Kawleski’s incarceration at Oshkosh Correctional Institution and subsequent release to extended supervision.

- a. Kawleski sent several requests to records to determine why he was being held past his maximum discharge date. (See exhibits 21 – 25).
- b. On July 23, 2020, Mr. Tomlin from records, responded to Kawleski’s inquiry with, “Street time does not count – your comp[utation] is correct.” Black’s Law Dictionary defines ‘street time’ as, “The period between a person’s release from prison on parole and a court’s revocation of that parole.” As previously noted in section I.b. of this petition, pursuant to Wis. Stat. § 973.01(6), parole is not allowed for bifurcated sentences. (See exhibit 21).
- c. On two separate occasions, July 28, 2020 and February 24, 2021, Mr. Tomlin and Ms. Trochinski, responded to Kawleski’s requests with,

- “302.113(9)(am),” as the reason he was being held past his maximum discharge date. This is not possible as noted in section I.e. of this petition. (See exhibits 22 and 24).
- d. On August 18, 2020, Kawleski received a response from Ms. Trochinski, in the records department, asking him to explain how he will do more than 20 years of extended supervision. Kawleski has calculated that between June 19, 2001 and June 19, 2021, he has served approximately 11 years, 10 months and 25 days in the status of ES. As discussed in section I.b. of this petition, the legislature has limited his ES exposure to 20 years. Kawleski’s sentencing Court limited that further by setting, “a term of extended supervision not to exceed 17 years and 6 months.” Hypothetically, if the DOC could extend Kawleski’s sentence, they could only impose a maximum of approximately 5 years, 7 months, and 5 days of ES starting from the maximum discharge date of June 19, 2021. This would however, be contrary to the restrictions put in place by the legislature in Wis. Stat. § 973.01 for bifurcated sentences, court rulings and the Wisconsin and United States Constitutions. Kawleski’s entire sentence has already been served. According to the offender data sheet, Form DOC-172, from Kawleski’s file, his maximum discharge date printed on the form is 06/19/2021. It has been crossed out and a new maximum discharge date of 5-14-2033 was written in by hand on the form. (See exhibits 1, 23 and 29). With the stroke of a pen, State officials have increased the total length of Kawleski’s bifurcated sentence from 20 years to approximately 31 years, 10 months and 25 days, clearly a judicial function, violating Kawleski’s right to due process, equal protection and freedom from double jeopardy. (See US Const. Art. I § 9, Amends. V-VIII, & XIV; Wis. Const. Art. I §§ 5-8, & 12).
- e. Kawleski, being Pro Se, does not know if any of this falls under Wis. Stat. § 946.12, the “Misconduct in Public Office” statute, but leaves that up to the determination of the Court.

- f. In *Hicks v. Oklahoma*, 447 U.S. 343, 346, 100 S.Ct. 2227, 65 L.Ed.2d 175 (1980), the court held,

“The defendant [...] has a substantial and legitimate expectation that he will be deprived of his liberty only to the extent determined by the [Court] in the exercise of its statutory discretion, *cf. Greenholz v. Nebraska Penal Inmates*, 442 U.S. 1, 99 S.Ct. 2100, 60 L. Ed.2d 668 (1979), and that liberty interest is one that the Fourteenth Amendment preserves against arbitrary deprivation by the State. *See Vitek v. Jones*, 445 U.S. 480, 488 – 489, 100 S.Ct. 1254, 1261, 63 L.Ed.2d 552, citing *Wolff v. McDonnell*, 418 U.S. 539, 94 S.Ct. 2963, 41 L.Ed.2d 935; *Greenholz v. Nebraska Penal Inmates*, *supra*; *Morrissey v. Brewer*, 408 U.S. 471, 92 S.Ct. 2593, 33 L.Ed.2d 484 (1972).”

- g. The Warden of OSCI was informed of Kawleski’s continued confinement and she responded to him on that issue.

- i. On Friday, June 11, 2021, Kawleski sent a letter to J. Truchinski in Records and the heading on that letter was – “Re: Case 01CF43 – Unlawful extension of bifurcated sentence.” The letter was about maximum discharge, not the revocation process. (See exhibit 25).
- ii. On Wednesday, June 16, 2021, Kawleski wrote a letter to Warden Cheryl Eplett informing her of his maximum discharge date and she responded with a letter dated June 25, 2021, several days after his maximum discharge date. Records staff had misinformed her that they had a meeting with Kawleski about his revocation. (See exhibit 26 and 27)

- h. Kawleski was not allowed “meaningful access” to law library resources pursuant to DAI policy, federal law, and the United States Constitution, delaying the filing of his initial petition.

- i. Kawleski was given an “extra law time” library schedule for the time period of August 28, 2021 through September 28, 2021. That schedule contains 45 library sessions each 45 minutes long. Out of the first 13 periods on the schedule, 8 periods were cancelled. (See exhibit 28). This is a typical occurrence at OSCI.
- ii. DAI Policy 309.15.01 reads,

“The Division of Adult Institutions shall ensure inmates are afforded meaningful access to the courts, judicial process, legal services, and legal materials by providing an adequate law library consistent with the Wisconsin Administrative Code.”

Section III.A.2. of the policy reads,

“Facilities shall: Ensure the law library is available for a reasonable number of hours to allow inmates time for research to meet court deadlines.”

- iii. Since the COVID-19 pandemic lockdown, at the warden’s direction, OSCI officials have not strictly followed all DAI policies in situations where it would interfere with lockdown protocols. This has further limited inmate access to Law Library resources which are already inadequate under normal circumstances for an institution with around 1800 inmates. It is unclear why other methods have not been employed to allow inmates access to the courts. Adding Westlaw research stations on each unit would allow much of the population to get their research done on the unit and only go to the library to prepare their documents or E-file. Segregation inmates have Westlaw research stations they can use to do case and statute research. A Westlaw App could be offered to those inmates with tablets to take the load off of the limited library resources. Kawleski’s understanding is that none of these changes will be made, although it is unknown why that is the case.
- i. Upon release from prison, Kawleski was subjected to egregious rules and regulations by his current probation Officer, Miles Jobke.
 - i. Kawleski was subjected to GPS monitoring for 4 months after release.
 - ii. Kawleski was not allowed to return to his home until August 22, 2022, being forced to spend all of his savings he needed to pay bills for his property, instead, on motel rooms for the duration

between his release from prison at the end of June 2022 until August when the Courts mandated the probationer in Kawleski's home had to leave because they did not have a valid rental agreement. This is something the probation agent knew and could have taken care of easily due to the probationer staying in Kawleski's home illegally but he chose to do nothing. Kawleski believes this was a form of retaliation because he has filed this lawsuit against the Department of Corrections. (See US Const. Art. I § 9, Amends. V-VIII, & XIV; Wis. Const. Art. I §§ 5-8, & 12).

Kawleski prays the Court will review this document liberally as he is "unlettered" in the law pursuant to *State ex rel. Terry v. Traeger*, 60 Wis.2d 490, 496, 211 N.W.2d 4 (1973) where the Court held that, "[W]e must follow a liberal policy in judging the sufficiency of pro se complaints filed by unlettered and indigent prisoners." In *Russell v. Lazar*, 300 F.Supp.2d 716, 719-20 (E.D. Wis. 2004), the Court said, "Because the plaintiff in this case is proceeding pro se, I am obliged to give his allegations, however inartfully pleaded, a liberal construction. *Haines v. Kerner*, 404 U.S. 519, 520-21, 92 S.Ct. 594, 30 L.Ed. 652 (1972)." Kawleski has been studying the law for only a few years and asks, if the Court finds any of the issues appear to be in default in any way due to Kawleski's lack of understanding of the law or pleadings that were inadequate, please consider the holdings in *Thomas v. Williams*, 822 F.3d 378, 386 (7th Cir. 2016) citing *Coleman v. Thompson*, 501 U.S. 722, 750 (1991), "Procedural default may be excused, however, where the petitioner demonstrates either (1) "cause for the default and actual prejudice" or (2) "that failure to consider the claims will result in a fundamental miscarriage of justice." It is Kawleski's hope that he has explained those issues to the Court's satisfaction in this document.

STATE OF WISCONSIN
COURT OF APPEALS
DISTRICT IV

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Appellant,

v.

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Cir. Ct. Case No. 2001CF000043

STATE of Wisconsin
Respondent.

STATEMENT ON ORAL ARGUMENT

Kawleski is not aware of any reason this matter should be considered for oral argument as the facts seem clear but leaves that determination to the Court. As a pro se appellant, Kawleski may need to be assigned counsel or retain counsel on his own if oral argument is deemed necessary since he is not lettered in the law.

Additionally Kawleski believes this case should be published but again leaves that determination up to the Court.

CONCLUSION

WHEREFORE, Kawleski respectfully requests that a Writ of Habeas Corpus be issued to compel the DOC to release Christopher P. Kawleski immediately from all custody and control, in the matter set forth in this petition pursuant to all applicable statutes and administrative codes.

FURTHER, Kawleski requests the Court grant compensatory damages for holding him in custody and confinement beyond what was originally stipulated by the Court ordered Judgement of Conviction.

FURTHER, Kawleski requests the Court take any necessary action or order, for any additional compensation consistent with cruel and unusual punishment Kawleski endured, that the Court deems necessary to obtain justice.

FURTHER, Kawleski requests, if the Court deems necessary, the Court proceed with a John Doe investigation into the activities and practices of all employees in the Jefferson County Department of Corrections Division of Community Corrections field office to prevent future violations of probationer's civil rights.

FURTHER, and finally Kawleski requests that all Department of Corrections and Division of Hearings and Appeals staff that were involved in Kawleski's supervision and revocation, be barred from harassing Kawleski henceforth.

DATED March 1, 2023.

Respectfully submitted,



PRO SE PETITIONER

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on MARCH 1, 2023, I have furnished the following documents on the matter by Certified U.S. Mail to the Court of Appeals, District IV and to the Office of the Attorney General, in the above-captioned matter:

1. Kawleski's Appellant Brief petitioning the Court for a Writ of Habeas Corpus
2. Declaration of Petitioner with supporting exhibits

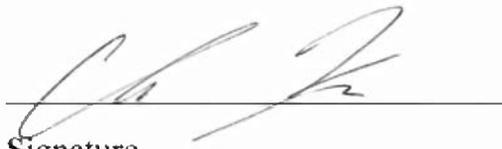


Christopher P. Kawleski
N312 Betenz Lane
Palmyra WI 53156-9602
Petitioner, Pro Se

CERTIFICATION AND FORM LENGTH

I hereby certify that this petition conforms to the rules contained in Wis. Stats. § (Rule) 809.19(8)(b), (bm) and (c) for a brief. The length of this petition is 26 pages, 6362 words.

Date: 3-1-23


Signature

STATE OF WISCONSIN
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DECLARATION OF PETITIONER WITH SUPPORTING EXHIBITS

I, Christopher P. Kawleski, being duly sworn upon oath, depose and state as follows:

1. I am an adult living in my home in Palmyra, Wisconsin, and make this declaration voluntarily based upon documents obtained.
2. I am providing documents created by the Sentencing Court, the DOC, and documents from my DOC file.
3. I am providing exhibits that contradict the assertions of DOC staff regarding this matter.

Pursuant to 28 U.S.C. § 1746 and state law, I certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this FIRST day of MARCH, 2023



Signature