

RECEIVED**DEC 27 2022****CLERK OF COURT OF APPEALS
OF WISCONSIN****Brief of Appellant****STATE OF WISCONSIN COURT OF APPEALS DISTRICT 2****STATE OF WISCONSIN APPEAL No. 2022AP001734CR****PLAINTIFF-RESPONDENT****v****MR. KIT R. STILWELL,****Circuit Court Case No. 2019CM000287****DEFENDANT-APPELLANT**

Note: Mr. Kit Stilwell never received a copy of the judgement nor the order by the court. There is no record that the judgement nor the order by the court was distributed to Mr. Kit Stilwell.

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Statement of Issues

1. On 9-24-2018 Kenosha County ADA Zachery Brost issued Mr. Kit Stilwell a citation in lieu of criminal complaints for Kenosha County Circuit cases 2018CM000214, 2018CM000384 and 2018CM000592. It shall be noted that all three of these cases were past the time limits for a trial.
2. On March 5, 2019, Kenosha County ADA Zachary Brost filed a criminal complaint for three counts of Bail Jumping for cases 2018CM000214, 2018CM000384 and 2018CM000592 for me, Mr. Kit Stilwell for not complying with terms of a Bond, the alleged noncompliance was for communicating.
3. The penalty for not complying with terms of a bond are listed on form CR-203, form CR-203 is what Zachary Brost based his criminal complaints on.
4. The time limit for a trial for Kenosha County Circuit case 2019CM000287 was on or about May 10, 2019.
5. After May11,2019 Kenosha County ADA Zachery Brost did not have lawful authority to continue to prosecute Kenosha County Circuit Court criminal case 2019CM000287.
6. Judge Lee Dreyfus Jr. never had lawful jurisdiction for Kenosha County Circuit Court case 2019CM000287.
7. Judge Lee Dreyfus Jr. never scheduled nor ordered a trial for Kenosha County Circuit Court case 2019CM000287.
8. Kenosha County ADA Zachery Brost did not have lawful authority to continue to prosecute a criminal case that was past the time limit for a trial.
9. Mr. Kit Stilwell was never distributed terms of a bond.

8. Mr. Kit Stilwell was never lawfully distributed anything in advance in writing from the Kenosha County Circuit Court that a trial for case 2019CM000287 was going to take place on September 20,2022 and September 21,2022 .

9. On September 20,2022, and 2022 Judge Lee Dreyfus Jr. presided over case 2019CM000287 in Kenosha County without ever scheduling nor having a order by the court for trial in Kenosha County Circuit Court for case 2019CM000287.

10. Zachary Brost never distributed the evidence he planned on submitting to the court at the trial before the trial.

11. Kenosha County ADA Zachary Brost subpoenaed witness for a trial for Kenosha County Circuit Court case 2019CM000287 on September 20,2022 when a trial was never scheduled nor ordered by the court.

Statement of Case

On March 4, 2019 Mr. Kit Stilwell contacted the Kenosha County Executive's office demanding that the Kenosha County Clerk of Court's Office return the thousands of dollars of the Bail money they have for Kenosha County Circuit cases 2018CM000214, 2018CM000384 and 2018CM000592 they have, or provide or provide Mr. Kit Stilwell the order by the court that allows them to keep it in there possession.

The next day after Mr. Kit Stilwell requested the Bail money be returned Kenosha County ADA Brost file a criminal complaint against Mr. Kit Stilwell. The case number for the criminal complaint is 2019CM000287.

I was arrested on March 11, 2019 when I appeared for jury selection for Kenosha County Circuit cases 2018CM000214, 2018CM000384 and 2018CM000592. On March 11, 2019, Judge Bruce Schroeder stated he did not have time for my cases that day.

On March 11, 2019 at the initial appearance for case 2019CM000287, Loren Keating the court commissioner set Bail at \$4000.00 dollars and nonmonetary conditions of "No contact including the residence, electronic or 3rd party with: Leah K, May not come w/n 1000 ft of Leah K residence. No contact also means any temporary location she is at. Follow all previous bonds on 18CM214, 18CM384 18cm5"

Note: Not only is Leah K my live-in girlfriend, but she is also my witness against the state for the alleged tackle in the initial case 2018CM000214.

The nonmonetary conditions prove the state never had any intention to take cases 2018CM000214, 2018CM000384 and 2018CM000592 to trial.

At the initial appearance Loren Keating scheduled a Pre-Trial Conference with the Kenosha County District attorney's office 65 days after the initial appearance, and a Final Pre-Trial Conference with Judge Schroeder 83 days after the initial appearance.

Loren Keating's actions of scheduling criminal misdemeanor cases beyond 60 days in contrary to Wisconsin State Statute 971.10 (1) Speedy Trial.

On March 12, 2019 my girlfriend posted \$4000.00 dollars Bail for my release from custody.

On March 12, 2019 when being released from custody because the requirements were met, I was told my Jail guards.

On April 2, 2019 Judge Schroeder schedule a hearing for the sole purpose for Mr. Kit Stilwell to sign a bond. Judge Schroeder adjourned the hearing for April 2, 2019, then rescheduled the hearing for April 2, 2019, without notifying Mr. Stilwell. When Mr. Stilwell did not appear for the adjourned the hearing for April 2, 2019. Judge Schroeder ordered a bench warrant for his arrest.

On May 15, 2019 when Mr. Stilwell did not appear to meet with the Kenosha County District Attorney's office staff, Judge Bruce Schroeder put out another bench warrant.

Mr. Stilwell was not required to meet with the District Attorney staff.

There was no document that there was a court hearing before Judge Schroeder on May 15, 2019. Therefore Mr. Stilwell was not required to appear with the D.A.

The back story of this case is Mr. Stilwell exposed illegal active at Kenosha Unified School District. One of the people exposed was Judge Schroeder's daughter Stacy.

Judge Schroeder used his authority as a Judge retaliate against Mr. Stilwell with the assistance of Kenosha County ADA Zachary Brost.

This illegal behavior by Judge Schroeder and ADA Brost went on for over three years.

There was no legitimate purpose for the criminal complaint because it state what the penalty is for violating term of a bond right on the bond form CR-203.

Statement of Facts

1. No crime was committed by Mr. Stilwell. No terms of a Bond exist.
2. Mr. Stilwell was released from custody on Bail not Bond.
3. Judge Lee Dreyfus Jr. never had lawful jurisdiction for Kenosha County Circuit Court case 2019CM000287. There is no record as of this date in the court record of a GF-168S form that there was an order by the court naming Judge Lee Dreyfus Jr. the court official for Kenosha County Circuit case 2019CM000287.
4. There never was a trial date nor an order by the court for a trial for Kenosha County Circuit case 2019CM000287 for anytime in the month of September of 2022.
5. The time limit for this misdemeanor case without a continuance is within 60 days of the initial appearance. There never was a continuance. The trial took place over three years after the initial appearance.
6. ADA Brost issued a citation in lieu of the criminal complaints then reneged on the citation without notifying Mr. Stilwell.
7. It was an unlawful trial. That trial never met the requirements to take place.

Argument

Unlawful Trial- Never Scheduled nor Ordered

A trial for Kenosha County Circuit case 2019CM000287 was never scheduled nor ordered by the court is contrary to Wisconsin Statute 969.09 (1) that clearly mandates “the requirements that the defendant will appear in the court having jurisdiction on a day certain and thereafter as ordered until discharged on final order of the court.”

Judge Lee Dreyfus Jr. never had lawful jurisdiction for Kenosha County Circuit Court case 2019CM000287.

Judge Lee Dreyfus Jr. never had lawful jurisdiction for Kenosha County Circuit Court case 2019CM000287 there is no record nor GF-168S form that Judge Lee Dreyfus Jr. was ever ordered by the court to be the court official for Kenosha County Circuit Court case 2019CM000287.

SCR 60.04 mandates “A judge shall hear and decide matters assigned to the judge.”

Time Limited for Trial Expired

The court had no jurisdiction for Kenosha County Circuit Court case 2019CM000287, 60 days after the initial appearance. And the district attorney had no authority to prosecute this case after 60 days after the initial appearance pursuant to Wisconsin State Statute 971.10 (1) Speedy trial, that mandate “in misdemeanor actions trial shall commence within 60 days from the date of the defendant's initial appearance in court.

Hadley, Plaintiff in error, v. State, Defendant in error
Supreme Court of Wisconsin
66 Wis. 2d 350; 225 N.W.2d 461; 1975 Wisc. LEXIS 1665; 78 A.L.R.3d 273
No. State 120
February 4, 1975, Decided
October 2, 1974, Argued

Editorial Information: Prior History

Error to review a judgment of the Circuit Court for Kenosha County: Earl D. Morton, Circuit Judge.

Disposition:

By the Court. -- Judgment of conviction and sentence vacated, and cause remanded to the trial court with instructions to dismiss the complaint and information.

Counsel For the plaintiff in error there were briefs by *Howard B. Eisenberg*, state public defender, and *Ronald L. Brandt*, assistant state public defender, and oral argument by *Mr. Brandt*.

For the defendant in error the cause was argued by *Robert D. Martinson*, assistant attorney general, with whom on the brief was *Robert W. Warren*, attorney general.

Judges: Heffernan, J. Robert W. Hansen, J. (*dissenting*). Mr. Justice Leo B. Hanley and Mr. Justice Connor T. Hansen join in this dissent.

CASE SUMMARY

PROCEDURAL POSTURE: Defendant sought review of an order from the Circuit Court for Kenosha County (Wisconsin), which convicted him of two counts of armed robbery and sentenced him to consecutive prison terms. Defendant contended that his right to a speedy trial was violated. A defendant's conviction for armed robbery was vacated because he was denied the constitutional right to a speedy trial. The fact that the trial judge was ill was no excuse for the state's failure to bring the case to trial.

OVERVIEW: The court found that the jury properly found defendant guilty beyond a reasonable doubt. However, the court found that defendant was denied the constitutional right to a speedy trial. The delay of almost 18 months was excessive. Defendant was more than diligent in making a demand for trial. On numerous occasions, he called the trial court's attention to the fact that he was not receiving his constitutional right to a speedy trial. The fact that the trial judge was ill was no excuse for the State's failure to bring the case to trial. Other judges were available, and if they were not, the fault lay not with defendant but with the resources of the system of court administration. There was absolutely no evidence in the record that defendant sought any delay beyond the short and reasonable time that was necessary for counsel to prepare his cases.

OUTCOME: The court vacated defendant's conviction and sentences. The court remanded the case to the trial court with instructions to dismiss the complaint and information.

**Kenosha County ADA Zachary Brost does not have the Authority to Issues a
Citation in Lieu of Criminal Complaints**

Kenosha County ADA Zachary Brost unlawfully substitute a criminal complaint to a citation, which is contrary to Wisconsin State Statutes 968.085(1) that mandates "a citation is not a criminal complaint and may not be used as a substitute for a criminal complaint."

969.01 Eligibility for release. (1) BEFORE CONVICTION.

Before conviction, except as provided in ss. 969.035 and 971.14 (1r), a defendant arrested for a criminal offense is eligible for release under reasonable conditions designed to assure his or her appearance in court, protect members of the community from serious bodily harm, or prevent the intimidation of witnesses.

Pursuant to Wisconsin State Statute 969.01(1) communication can not be a condition of release. Denying a person of their 1st Amendment to the United States constitution guarantee right of freedom of speech violates their civil rights. And that is what Mr. Stilwell is a victim of.

No Crime was Committed

Because no terms of a bond exist. Mr. Stilwell had no terms of a bond to comply to and Mr. Stilwell was always released on Bail not Bond. Terms of a Bond are monetary conditions, ADA Brost 's criminal complaint is for nonmonetary conditions. The criminal complaint was for contact. Mr. Brost claimed speech is contact. Pursuant to Wisconsin State Statute 969.01(1) that mandates **Before conviction**, except as provided in ss. 969.035 and 971.14 (1r), a defendant arrested for a criminal offense is eligible for release **under reasonable conditions designed to assure his or her appearance in court**, protect members of the community from serious bodily harm, or prevent the intimidation of witnesses.

Conclusion

The relief sought is : The court vacated defendant's conviction and sentences and the court remanded the case to the trial court with instructions to dismiss the complaint and information.

December 19,2022



Mr. Kit Stilwell