

STATE OF WISCONSIN

CIRCUIT COURT
CIVIL DIV. 3

BROWN COUNTY

STATE EX REL, QUINN JOHNSON
WHITEVILLE CORRECTIONAL FACILITY
P.O. Box 679
Whiteville, TN 38075

Petitioner,

v.

DEIRDRE MORGAN, CHAIRPERSON
WISCONSIN PAROLE COMMISSION
2701 International Lane, Suite 201
Madison, WI 53704

Respondent.

Case No. ~~01CW1283~~
Code No. ~~30707~~

PETITION FOR WRIT OF CERTIORARI.

AUTHENTICATED COPY
FILED

AUG 28 2001

PAUL G. JANQUART
CLERK OF COURTS
BROWN COUNTY, WI

Submitted By:

QUINN JOHNSON
Petitioner, Pro-Se.

STATE EX REL, QUINN JOHNSON
Whiteville Correctional Facility
P.O. Box 679
Whiteville, TN 38075

Petitioner,

V.

Case No. _____
Code No. 30707

DEIRDRE MORGAN, CHAIRPERSON
Wisconsin Parole Commission
2701 International Lane, Suite 201
Madison, WI 53704.

Respondent.

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PETITION FOR WRIT OF CERTIORARI.

AUG 28 2001

PAUL G. JANQUART
CLERK OF COURTS
BROWN COUNTY, WI

NOW COMES the Petitioner proceeding herein pro-se, pursuant to Art.

4 Sec. 7 & 8 of the Wisconsin Constitution and Ch. 781 of the Wisconsin Statute, with his Petition for Writ of Certiorari. In support of this petition, it is respectfully stated:

1. At all times relevant to this action, Petitioner was a State of Wisconsin prisoner being confined at the WHITEVILLE CORRECTIONAL FACILITY, (W.C.F.), located at 1440 Union Spring Rd., P.O. Box 679, Whiteville, TN 38075.

2. At all times relevant to this action, Respondent Dierdre Morgan was the chairperson of the Wisconsin Parole Commission, whose address is: 2701 International Lane, Suite 201, Madison, WI 53704.

3. At all times relevant to this action, when a Administrative Statute is being challenged, Joint Committee of Review of Administrative Rules, State Capital, Sotuh, P.O.Box 7882, Madison, WI 53708-7882.

9. On June 26, 2000, Petitioner was awarded his three(3) years and two(2) months of jail credit.

The 3½ years served on the sentence was not reflected in the record, nor in Petitioner's M.R. date. Once this time had been credited toward the sentence, Petitioner's M.R. date was recalculated and changed to 12/14/08.

10. On April 21, 2001, Petitioner submitted a request for reconsideration of parole or a "new parole" hearing based on the incorrect information in the record that Petitioner had been granted a discretionary parole and was revoked in 1998. And "new evidence" that Petitioner had served 3½ years longer than the original parole commissioner was aware of and that time had now been credited toward the sentence.

11. On May 3, 2001, Petitioner received an answer to his request from a Bethany Vande Kolk, Contract Monitoring Unit, Dodge Correctional Institution, 1 West Lincoln St. Waupun, WI 53963, indicating that the information has been noted and discussed with the parole commissioner, and that a decision has been made that the 48 month defer will stand. She further noted that given Petitioner's M.R. date is 12/14/2008, "the defer and subsequent parole eligibility date (PED) [is reasonable]".

There was no mention of the factual error concerning a early release and reincarceration for a parole violation in 1998.

12. The parole commission allows for no administrative appeal of its actions. Thus, there is no adequate remedy alternative to application for Writ of Certiorari.

13. In 1997, the Secretary of the Wisconsin Department of Corrections (W.D.O.C.), issued a "new rule" directing the parole Commission not to grant early parole to any and all drug offenders and that they will be required to serve the entire mandatory maximum release date of their sentence.

14. Upon information and belief, this "new rule" was applied to the Petitioner by the Respondents when the decision was rendered to deny him parole.

15. This "new rule" have never been properly promulgated and enacted through the Laws of Chapter 227 of the Wisconsin Statutes.

16. At the time of Petitioner's parole hearing, the Respondents did not give Petitioner any notice that such a rule or policy would be considered in his application for an early release on parole.

17. Petitioner's offense is for possession of a controlled substance with intent to deliver, which classifies him as a drug offender within the meaning of the new rule.

18. At the time of Petitioner's conviction and sentence no such rule or policy was in effect and Petitioner expected that if he fulfilled all his program needs and satisfied all the other required criterion established by the W.D.O.C., he would be considered for an early release on parole.

19. Under the plain language of the new rule Petitioner would not be released on a early parole no matter what he accomplished or achievement made during his incarceration.

20. In the following proceedings, Petitioner allege his is entitled to relief on the following grounds:

(a). Respondent's decision to deny him early

parole based on the fact he had not served a sufficient amount of time was arbitrary and unreasonable, representing his will rather than his judgment.

(b). The respondent's decision to deny Petitioner a new parole hearing based upon new and highly relevant evidence, was arbitrary and unreasonable representing their will rather than their judgment.

(c). Respondents decision to deny Petitioner a new parole hearing based on a change in his sentence of a 3½ year reduction, was contrary to their own rules and regulations.

(d). There was insufficient evidence to support the Respondents decision to defer reconsideration of Petitioner's parole for 48 months.

(e). The retroactive application of a new rule or policy denying early parole to drug offenders, violated Petitioner's Substantive Due Process Rights.

(f). Respondent's decision to deny a new parole hearing based upon new and highly relevant evidence violated the Petitioner's procedural Due Process Rights.

(g). Respondent did not follow their own rules when making the decision to defer reconsideration of his parole for 48 months.

CONCLUSION.

WHEREFORE, Petitioner respectfully pray this Honorable Court to GRANT this Petition for the issuance of a Writ of Certiorari to bring up for review the parole hearing proceedings held above by the Respondents and that, upon the return of the writ, issue an ORDER THAT THE DECISION OF THE Respondents be REVERSED and ruled null and void, and FURTHER issue a DECREE that the retroactive application of a rule or policy which denies drug offenders early parole is Unconstitutional both on its face and as applied to the Petitioner.

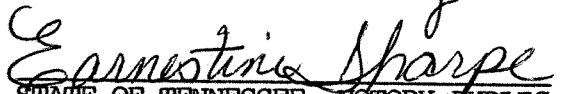
Respectfully Submitted,

Dated this 18th day of May 2001.



Petitioner, Pro-Se
WHITEVILLE CORRECTIONAL FACILITY
P.O. Box 679
Whiteville, TN 38075

Sworn and Subscribed to before me
Dated this 18th day of May 2001.


STATE OF TENNESSEE, NOTARY PUBLIC,
My Commission expire 11-19-03.

AUTHORIZATION TO WITHHOLD MONEY FROM ACCOUNTS

I, Quinn Johnson
(Print Plaintiff's Name)

42706
(I.D. Number, e.g. DOC No.)

wish to commence a lawsuit described as follows:

**DEIRDRE MORGAN, CHAIRPERSON
WISCONSIN PAROLE COMMISSION**

Name(s) of defendant(s)

Name of court (e.g. Circuit Court for Dodge County)

Petition For Writ of Certiorari

Subject of the lawsuit (e.g. disciplinary ticket #)

If the court permits me to commence this lawsuit, by my signature below I authorize the agency having custody of my prison trust fund account to forward payments from my account to the clerk of court each time the amount in the account exceeds \$10 until the costs and fees are paid in full.

Quinn Johnson
(Signature of Plaintiff)

May 18, 2001
(Date)

CUSTODIAN:

Give inmate a copy after he or she signs it.

When suit is filed and served, enter court case number here: _____

A COPY OF THIS FORM MUST ACCOMPANY CIRCUIT COURT FORM CV-438 or CV-440, PRISONER'S AFFIDAVIT OF INDIGENCY

STATE OF WISCONSIN -VS- QUINN JOHNSON, Defendants DOB 1/04/54	Plaintiff Defendant	AMENDED TYPE OF CONVICTION INCARCERATION - WSP COURT CASE NUMBER 91CF00258
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The defendant entered plea(s) of: GUILTY NOT GUILTY X NO CONTEST
The COURT found the defendant guilty of the following crime(s):

CNT	CRIME(S)	WIS STATUTE(S) VIOLATED	FELONY OR MISDEMEANOR (F OR M)	CLASS (A-E)	DATE(S) CRIME COMMITTED
1	POSS WITH INTENT TO DEL	161.41(1M)(C)	FE		5/29/91

(THIS CASE WAS APPEALED AND WAS REVERSED AND CAUSE REMANDED)

IT IS ADJUDGED that the defendant is convicted on 9/10/91 as found guilty and:
 X on 6/27/94 is sentenced to prison for 22 YEARS, 6 months
 on is sentenced to intensive sanctions for
 on is sentenced to county jail for
 on is placed on probation for

CONDITIONS OF SENTENCE/PROBATION
Obligations: (Total amounts only)

FINE / FORFEITURE Due 0/00/00	\$ 2,000.00
CRIME/VICTIM SURCHARGE Due 0/00/00	\$ 50.00
COURT COSTS / MISC. FEES Due 0/00/00	\$ 1,630.00
TOTAL	\$ 3,680.00

JAIL: to be incarcerated in the county jail
 CONFINEMENT ORDER FOR intensive sanctions only-length of term

Miscellaneous
 SENTENCE AMENDED
 PRISON SENTENCE TO RUN CONSECUTIVE TO CURRENT SENTENCE
 FINE AND COSTS DUE 2 YEARS AFTER RELEASE FROM PRISON

IT IS ADJUDGED that days sentence credit are due pursuant to s.973.155 Wis. Stats. and shall be credited if on probation and it is revoked.

IT IS ORDERED that the Sheriff shall deliver the defendant into the custody of the Department located in the City of WAUPUN Wisconsin.

NAME OF JUDGE WILLIAM ATKINSON
DISTRICT ATTORNEY JOHN ZAKOWSKI
DEFENSE ATTORNEY C. F. MONFELS

F I L E D

JUN 30 1994

BY THE COURT:
Patricia Marszke
 XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX / Deputy Clerk

6/27/94
 Date

PAROLE COMMISSION ACTION

OFFENDER NAME JOHNSON, QUINN	DOC NUMBER 042706	INSTITUTION CCAW	AGENT AREA NUMBER 40508
ACTION TAKEN D-48	NEW PED 2/12/2004	ELIGIBLE ON OR AFTER N/A	PAROLE COMMISSION CHAIRPERSON <input checked="" type="checkbox"/>
DATE ACTION TAKEN 2/8/2000			TIME

- Has served sufficient time so that release would not depreciate the seriousness of the offense
 Not served sufficient time

Documentation **5TH INCARCERATION P.V.(MULTIPLE ARMED ROBBERIES) NEW DRUG OFFENSE**

INSTITUTION CONDUCT

- Has been satisfactory Marred by multiple minor reports of misconduct
 Has been unsatisfactory noting major misconduct

Documentation

PARTICIPATION IN RECOMMENDED PROGRAM(S) Satisfactory Unsatisfactory

Documentation **DOMESTIC VIOLENCE COUNSELING HAS NOT BEEN AVAILABLE.**

PAROLE PLAN

- Workable, but will need Agent's verification Vague - will need further development

Documentation **RESIDENCE WITH WIFE**

RISK TO THE COMMUNITY Unreasonable risk No reasonable risk

Documentation **INMATE REOFFENDED WITH DRUG DEALING WITHIN A FEW MONTHS FROM HIS LAST RELEASE FROM PRISON. DIFFICULT TO RELEASE GIVEN HIS ATROCIOUS CRIMINAL HISTORY.**

RECOMMENDED CONDITIONS OF PAROLE GRANT:

THIS DEFERRAL REQUIRES THE APPROVAL OF THE CHAIRPERSON OF THE PAROLE COMMISSION AND IS NOT FINAL UNTIL HE HAS APPROVED IT.

THERE IS NO ADMINISTRATIVE APPEAL OF THIS DECISION. INMATE HAS A PMR.

REQUESTS

- Pre-parole investigation Clinical Reports from Clinical Service
 Interstate Compact No-action/review by Parole Commission Chairperson
 Offense description

ECRB Evaluation

For Office Use Only

DCC/IS to DCC _____	SYSTEM _____
DAI to DCC/DS _____	PENS _____
DCC _____	29 _____
OUT-OF-STATE _____	DNA _____
MRR _____	ECRB _____
DETAINER _____	LIST _____

SIGNATURE OF PAROLE COMMISSIONER

[Handwritten Signature]

DISTRIBUTION: Copy - Institution; Copy - CRU; Copy - Offender; Copy - Agent

Scott McCallum
Governor



Dodge Correctional Institution
Contract Monitoring Unit
1 West Lincoln Street
Post Office Box 661
Waupun, WI 53963-0661
Telephone (920) 324-5577

Jon E. Litscher
Secretary

**State of Wisconsin
Department of Corrections**

May 3, 2001

Quinn Johnson #042706
Whiteville Correctional Facility
P.O. Box 679
Whiteville, TN 38075

RE: PED Date

Dear Mr. Johnson,

I checked with the Parole Commissioner regarding any change of your Parole Eligibility Date relative to your sentence credit. The dates were noted and the response given was that your last defer of 48 months will stand, and your PED (2/12/2004) will not change. Given the fact that your MR date is 12/14/2008, the defer and subsequent PED is reasonable.

Sincerely,

A handwritten signature in cursive script that reads "Bethany Vande Kolk".

Bethany Vande Kolk
Offender Records Assistant 2
DCI Contract Monitoring Unit Records

40508

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH VIII

BROWN COUNTY

STATE OF WISCONSIN,

Plaintiff,

ORDER

vs.

Case No. 91-CF-233

QUINN JOHNSON, 042706

Defendant.

IT IS HEREBY ORDERED that the Defendant be given credit for all days inclusive from May 29, 1991, to June 29, 1994. These days represent incarceration for the same offense prior to the original conviction being vacated and the Defendant being re-sentenced after new trial.

Dated this 26th day of June, 2000.

BY THE COURT:

157 William M. Atkinson
William M. Atkinson
Circuit Judge

c: Quinn Johnson #42706
Whiteville Correctional Facility
P.O. Box 679
Whiteville, TN 38075
District Attorney
Wisconsin Department of Corrections

COPY

NOTIFICATION OF SENTENCE DATA

OFFENDER NAME JOHNSON, Quinn	DOC NUMBER 042706	INSTITUTION CCAW/cmu/lc	DATE PREPARED 03/20/2001
MANDATORY RELEASE DATE 12/14/2008	MAXIMUM DISCHARGE DATE 08/29/2023	PAROLE ELIGIBILITY DATE * Remains 02/12/2004	
TRUTH - IN - SENTENCING EXTENDED SUPERVISION DATE	TRUTH - IN - SENTENCING MAXIMUM DISCHARGE DATE		

REASON FOR CHANGE

New Sentence/Also Sentence:

County:

Case #

Offense:

Governs Yes No

Sentence:

Presumptive MR – WI SS 302.11 Requires release ONLY after review by the Parole Commission: MR is NOT MANDATORY

Revocation:

Case #	Period of Reincarceration Ordered:	years	months	days
Case #	Period of Reincarceration Ordered:	years	months	days
Case #	Period of Reincarceration Ordered:	years	months	days
Case #	Period of Reincarceration Ordered:	years	months	days
Case #	Period of Reincarceration Ordered:	years	months	days

MR Extension:

Truth – In – Sentencing Extension:

Conduct/Violation Report #

Disciplinary Extension:

Conduct/Violation Report #

Dates In Segregation Status:

Segregation Extension:

Escape Date:

Apprehension Date:

Tolled Time:

Other – Specify Change: Per Order dated 06/26/2000 Case No. 91CF233 was amended to reflect 1,126 days jail credit.

Release dates above govern.

Inmate is currently housed at Whiteville Correctional Facility, Whiteville, TN.

* In no case may parole consideration occur less than 60 days following reception or return to the institution. DOC 330.04

DISTRIBUTION: Original - Record Office; Copy - Social Service; Copy - Security; Copy - Central Records Unit; Copy - Offender; Copy - Agent #

1) J279

2) 9ICF233 22 yrs 6 mos CS less 1126 days

96-11-30 - MR #1 per comp for Rev of 7.31.91
2.0 + EMR (60)

97-01-30 - Adj MR #1

11-10-14 + 2/3 #2 -WT $\frac{15.0.0}{-3.1.16}$
11-10-14

2008-12-14 - MR #2

7-2-15 + LTS #1 - EMR $\frac{7-4-15}{-2.0}$
7-2-15

2016-02-29 - MAX #1

7-6-0 + 1/3 #2

2023-08-29 - MAX #2

P40 remains 2-12-2004

Johnson, Quinn # 042706-A KP 3-20-2001

CR

Attorneys argue over tax stamp ruling

Hearing focuses on how to apply decision affecting convicted drug dealers

By DAVID DOEGE
of the Journal Sentinel staff

Hundreds of drug dealers imprisoned for failing to buy state drug tax stamps could go free because the state Supreme Court ruled the stamps unconstitutional, a prosecutor opposing an inmate's release said Wednesday.

But the court did not specify that its ruling should be applied retroactively, Assistant District Attorney Patrick J. Kenney ar-

gued before Milwaukee County Circuit Judge Maxine A. White. Kenney made his point at a hearing for Luppta Vela, a state prison inmate petitioning for release on the grounds that the law under which she was convicted was overturned.

Retrospective application of the ruling could free more than 700 men and women from prison, probation or parole, Kenney said. In a prospective application of the law — a view Kenney endorsed — the ruling would affect only people involved in drug trafficking cases since the Supreme Court acted.

The high court ruled, 4-3, last

month that the law requiring drug dealers to buy tax stamps was passed to track down dealers in violation of their state constitutional right against self-incrimination.

The law required dealers to buy the tax stamps depending on the drug quantities they had, but prosecutors could not use records from the sale of stamps to track down the dealers.

Although the court overturned the law, it did not specify how its ruling should be applied to the cases of people convicted under it in the past several years.

"I think they (the justices)

would have expressly provided for retroactivity if that was their intent," Kenney said.

Vela, 33, is serving a 15-month prison sentence under the tax stamp law. Her attorney, Jerome Pogodzinski, filed a motion asking that White use the Supreme Court ruling as a basis for releasing Vela.

Kenney told White that Vela was one of 343 people convicted under the law in Milwaukee County alone. In Vela's case and many others, prosecutors used the law in good faith to negotiate plea agreements that resulted in reduced drug charges for defen-

dants, Kenney said.

"There isn't any suggestion that the law was misused in this case," Kenney argued.

White decided not to rule on Vela's motion Wednesday because Vela was not present. She rescheduled a hearing on the matter for next month.

Other people convicted under the law are expected to file motions similar to Vela's in circuit courts in the months ahead. The application issue is expected to eventually work its way back to the Supreme Court, but it is not clear how circuit or appellate courts will rule in the meantime.

is not the only basis for a sentence modification. If the judge decides that he or she gave too much weight to one factor in the face of other contravening considerations—e.g., the refusal to acknowledge rehabilitation through parole—then that judge can reduce the sentence.

II. Motion to withdraw plea (which assumes, of course, both a guilty plea and no pre-plea advice to the defendant about the parole policy).

A. *See generally, State v. Bentley*, 201 Wis. 2d 303, ___ N.W. 2d ___ (1996) which, though an ineffective assistance of counsel case, contains a relevant discussion about how misunderstanding parole eligibility may affect plea-voluntariness.

B. Refusal to grant pre-MR parole converts every drug-dealer sentence in effect from a 1/4- to 2/3-mandatory minimum sentence. A defendant might argue, therefore, a lack of "understanding of... the potential punishment," a necessary ingredient of a guilty plea. Section 971.08(1), Stats. (But keep in mind that probability is ordinarily considered a "collateral consequence," so the argument will have to be that the parole policy in effect creates a mandatory minimum sentence, something that is a direct consequence of a plea.)

Motions for sentence modification or plea withdrawal are part of the direct appeal appointment if filed within the Rule 809.30, Stats., time limits. An appointment to litigate these motions outside the Rule 809.30 time limits must be approved in advance by the State Public Defender. See sec. 977.05(4)(f), Stats. We understand that the Wisconsin Civil Liberties Union may be litigating this issue. ¶

KNOCK AND ANNOUNCE RULE MAY STILL EXIST IN DRUG CASES

by Randy Paulson, Assistant State Public Defender

The United States Supreme Court recently granted the certiorari petition filed by Madison attorney David R. Karppe to review the Wisconsin Supreme Court's decision in *State v. Richards*, 201 Wis. 2d 839, 549 N.W.2d 218 (1996), *err. granted sub nom. Steiny Richards v. State of Wisconsin*, No. 96-5955 (U.S. Sup. Ct.) ___ U.S. ___ (January 3, 1997). The High Court's action calls into question both *Richards* and an earlier decision, *State v. Stevens*, 181 Wis. 2d 410, 425, 511 N.W.2d 591 (1994).

Essentially, the Supreme Court's action means that the "rule of announcement" in search warrant cases—which requires that executing officers knock on the door of a residence, announce their identity and purpose, and give the occupants a reasonable time to open the door before the officers are permitted to break it down—may still be alive in drug cases, despite the Wisconsin decisions.

The United States Supreme Court earlier held that the "common-law 'knock and announce' rule forms a part of the reasonableness inquiry under the Fourth Amendment." *Wilson v. Arkansas*, ___ U.S. ___ 115 S.Ct. ___ 131 L. Ed. 2d 976, 979 (1995). *Stevens*, which preceded *Wilson v. Arkansas*, had held in arguable conflict that the rule could be dispensed with in drug cases because exigent circumstances inherently exist in those cases. However, the court in *Stevens* had expressed uncertainty whether the rule was of constitutional

Marla Stephens, the Director of the SPD Appellate Division at (414) 227-4891, Jack Schärer, the First Assistant in the SPD Madison Appellate office, at (608) 266-3440, or Bill Tyroler, the First Assistant in the SPD Milwaukee Appellate office, at (414) 227-4805, for suggestions. ■

DRUG-DEALER NO-PAROLE RULE

The Department of Corrections ("DOC"), reacting to a Joint Finance Committee Directive, refuses to exercise its discretion to parole "drug dealers" (those convicted of Possession of Controlled Substance with Intent to Deliver or Delivery of Controlled Substance). These inmates will not be released on parole until they reach their mandatory release ("MR") date. An inmate reaches eligibility for discretionary parole ("PED," parole eligibility date) after serving 1/4 of the sentence, and reaches MR after serving 2/3 of the sentence. Deferral of parole to MR therefore involves a considerable amount of additional prison time.

How should attorneys respond to this development? Trial attorneys *must* inform their clients of the no early parole policy, even if it skews the client away from a plea decision that would otherwise be in his or her best interest. The attorney must also be prepared to give accurate information about this policy to the sentencing judge, in the hope it will be regarded as a mitigating factor.

Appointed appellate attorneys have several options to challenge the policy.

I. Motion to modify sentence.

A. New factor. *State v. Mitchell*, 150 Wis. 2d 94, 99, 441 N.W.2d 278 (Ct. App. 1989) ("a 'new factor' must be an event or development which frustrates the purpose of the original sentence... something which strikes at the very purpose for the sentence selected by the trial court."). It is very unlikely that a sentencing judge will say that this no parole policy strikes at the very heart of the basis for the sentence—in other words, that the judge actually meant for the defendant to be paroled prior to MR. However, if at sentencing the judge explicitly took into account the presumed parole eligibility date, then the motion's chance for success improves. Compare *State v. Kintner*, 69 Wis. 2d 534, 552-53, 234 N.W.2d 750 (1975) (upholding reduction of sentence which had been based on explicit misconception of parole eligibility) with *State v. Franklin*, 148 Wis. 2d 1, 14-15, 434 N.W.2d 609 (1988) ("a change in parole policy cannot be relevant to sentencing unless parole policy was actually considered by the circuit court"; and implicitly limiting *Kintner* to instances where "the circuit court did expressly discuss parole policy when making its sentencing decision.").

B. "Attack"—types of new factor. *State v. Kluck*, 200 Wis. 2d 837, ___ N.W.2d ___ (Ct. App. 1996), *revers pendul* (unlike felony defendant, misdemeanor can raise post-sentencing rehabilitation to support sentence reduction because rehabilitated felon has recourse to parole system, misdemeanor does not). The argument here would be that since the parole board has abdicated its responsibility, a drug defendant is effectively in the same position as a misdemeanor, hence should be allowed to adduce the sorts of things that traditionally don't qualify as new factors.

C. Harsh and excessive sentence. *State v. Kruger*, 119 Wis. 2d 327, 335-38, 351 N.W.2d 738 (Ct. App. 1984). A new factor

Deprivation

STATE EX REL, QUINN JOHNSON
Petitioner,

v.

Case No. 01CW1283

DEIRDRE MORGAN, CHAIRPERSON
WISCONSIN PAROLE COMMISSION
Respondent.

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FILED

MOTION FOR PRODUCTION OF DOCUMENTS TO BE
INCLUDED IN THE RETURN.

AUG 28 2001

PAUL G. JANQUART
CLERK OF COURTS
BROWN COUNTY, WI

COMES NOW the Petitioner proceeding herein, Pro-Se with his motion for an Order that the Respondent include a certified copy of any rule, policy or memo in their possession directing that all drug offenders shall not be released or receive a discretionary parole grant. In support of this motion, Petitioner respectfully states:

(1). Petitioner alleged in his Petition for Writ of Certiorari that the Respondents considered a new rule or policy directing that no discretionary paroles shall be granted to drug offenders, when the decision was made to deny him parole.

(2). Even though such rule or policy was considered by Respondents in rendering decisions in applications for early parole by drug offenders, no such document are made part of the official record of the hearing.

(3). The Petitioner is requesting that the Court take Judicial notice of the document pursuant to §. 942.01, Wis Stats., in the Certiorari proceedings that will be heard by the Court in this case.

CONCLUSION.

WHEREFORE, Petitioner respectfully moves this Honorable Court to GRANT THIS MOTION AND ORDER THAT ANY DOCUMENTS USED BY THE Respondents described herein as either a rule, policy or memo, directing that all persons confined by the Department of Corrections and convicted of a drug offense shall not be granted a discretionary parole and be required to serve the Maximum release date of the sentence imposed.

Respectfully Submitted,

Dated this 18 day of May 2001.



Petitioner, Pro-Se

WHITEVILLE CORRECTIONAL FACILITY

P.O. Box 679

Whiteville, TN 38075.

STATE EX REL, QUINN JOHNSON,
Petitioner,

v.

Case No. 01CV1283

DEIRDRE MORGAN, CHAIRPERSON
Wisconsin Parole Commission,
Respondent(s).

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MEMORANDUM IN SUPPORT OF PETITIONER'S AFFIDAVIT OF INDIGENCY **AUG 28 2001**

~~PAUL G. JANQUART~~
CLERK OF COURTS
BROWN COUNTY, WI

NOW COMES, the Petitioner, Quinn Johnson, an inmate at the WHITEVILLE CORRECTIONAL FACILITY, in Whiteville, Tennessee by contract with the Wisconsin Department of Corrections.

Petitioner, is attempting to file a Petition For Writ of Certiorari without being required to pay filing fees.

Petitioner Quinn Johnson, is not a "Prisoner," as defined in Sec. 801.02(7)(a), Stats. The definition of "Prisoner" is provided in Sec. 801.02(7)(a), Stats., which states that "Prisoner" means any person who is incarcerated, imprisoned or otherwise detained in a Correctional Institution or who is arrested or detained by a law enforcement officer." The term "Correctional Institution" is defined as follows in Sec. 801.02(7)(a)1, Wisconsin Stats.,:

"Correctional Institution" means any State or Local Facility that incarcerates or detains any adult accused of, charged with, convicted of, or sentenced for any crime. A Correctional Institution includes a Type 1 Prison, as defined in §.301.01 (5), a Type 2 Prison, as defined in §. 301.01(6), a county Jail and a house Corrections."

Wherefore, Petitioner herein pray that this Court will Grant leave
in this particular case.

Dated this 18th day of May, 2001 A.D.

Respectfully Submitted by:

Justin Johnson
Petitioner, Pro Se.

State ex. rel. Quinn Johnson
-VS-
Deirdre Morgan, Chairperson

Petition for Waiver of Filing and Service Fees - Affidavit of Indigency and Order

Case No. 01 IP-11
01CW1283

Under oath I state that because of poverty, I am unable to pay the filing and service fees of this action, proceeding, or appeal, or to give security for those fees, and request waiver of those fees. I am attaching and incorporating into this affidavit a copy of my pleading in this matter.

Complete Section 1 if you receive aid from any of the programs listed.

Section 1. If you do not receive aid, complete Section 2 on page 2.

I currently receive:

<input type="checkbox"/> Supplemental security income	<input type="checkbox"/> Relief funded under §59.53(21), Wis. Stats.	<input type="checkbox"/> Medical assistance
<input type="checkbox"/> Food stamps	<input type="checkbox"/> Relief funded under public assistance	
<input type="checkbox"/> Benefits for veterans under §45.351(1) or 38 USC 501-562		
<input type="checkbox"/> Legal representation from a civil legal services program or a volunteer attorney program based on indigency.		
Name of program: _____		
<input type="checkbox"/> Other means-tested public assistance: _____		

My financial situation has has not changed since I became eligible for this program.

If you checked the "has" box, and such changes would make you ineligible for the program(s) if you applied today, you must complete Section 2 on page 2 of this form.

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AUG 28 2001
PAUL G. JANQUART
CLERK OF COURTS
BROWN COUNTY, WI

Subscribed and sworn to before me on July 30, 2001
Earnestine Sharpe
Notary Public/Court Official

I understand that if my financial situation changes, I must notify the court immediately.
Quinn Johnson July 30, 2001
Signature Date
P.O. Box 678, Whiteville, TN 38078
Address

My commission expires: 11-19-03

COURT FINDINGS AND ORDER

1. This petition is GRANTED because the court finds the person is indigent. The action may be commenced without payment of filing fees. The sheriff shall serve all necessary documents without payment of service fees. If these fees are recovered, the amount shall be used to pay the filing and service fees waived by this order. Any request for waiver of any other fees or costs must be made to the court for consideration and decision.
2. This petition is DENIED because the court finds the petitioner not indigent but unable to pay the filing or service fees at this time. This action may be filed by the Clerk and all necessary documents may be served by the sheriff without prepayment of fees. Such fees must be paid no later than AUG 28 2001
3. This petition is DENIED because the court finds:
- the petitioner is not indigent.
 - allegation of poverty to be untrue.
 - the petitioner has not stated a meritorious claim, defense, or appeal upon which the court may grant relief.
- (Brief explanation) _____

BY THE COURT:
[Signature]
Circuit Court Judge
8/28/01
Date

Original: Clerk of Circuit Court

Section 2.

Complete this section only if you do not qualify under Section 1, or if the instructions for that section require you to complete it.

1. I am am not married.

2. I am am not employed. Name of employer: Whiteville Correctional Facility

3. I earn \$ \$41.00 gross weekly. every 2 weeks. twice monthly. monthly.
My take-home pay is \$ \$41.00 per payperiod.

4. I receive monthly income totaling the amount of \$ 0-00 from:
 Pension Social security Unemployment compensation
 Disability Student loans/grants Other: _____

5. I have the following cash assets:
 Savings accounts: \$ _____ Cash: \$ _____
 Checking accounts: \$ _____ Money owed me: \$ _____

6. I have the following other assets:
 Vehicle-Yr./Make: _____ \$ _____ Household furnishings: \$ _____
 Vehicle-Yr./Make: _____ \$ _____ Equity in real estate: \$ _____
 Other individual assets valued over \$200 each: _____ \$ _____

7. My household consists of myself and _____ others: I'm in prison.
Full name: _____ Relationship to me: _____ Under age 18 Yes No
Full name: _____ Relationship to me: _____ Under age 18 Yes No
Full name: _____ Relationship to me: _____ Under age 18 Yes No
Full name: _____ Relationship to me: _____ Under age 18 Yes No
Full name: _____ Relationship to me: _____ Under age 18 Yes No

8. The other members of my household have monthly income totaling the amount of \$ _____ from:
 Wages Social security Relief funded under public assistance Food stamps
 Pension Student loans/grants Unemployment compensation Supplemental security income
 Disability Relief funded under §59.53(21), Wisconsin Statutes Support/maintenance
 Other: _____

9. I have the following debts; Amount: Monthly Payment:
a. Mortgage \$ _____ \$ _____
b. Auto loan \$ _____ \$ _____
c. Credit cards \$ _____ \$ _____
d. Other: \$ _____ \$ _____

10. I have the following unusual expenses, other than ordinary living expenses:
STAMPS AND LEGAL COPIES \$15.00 TO 20.00 Monthly
HYGIENE NEEDS \$20.00



hURTADO S.C.
counselors at law

February 11, 2002

VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Senator Judith Robson- Senate Co-Chair
Joint Committee for Review of Administrative Rules
Room 15 S.
State Capitol
Madison, WI 53707

Representative Glenn Grothman-Assembly Co-Chair
Joint Committee for Review of Administrative Rules
Room 15 N.,
State Capitol
Madison, WI 53708

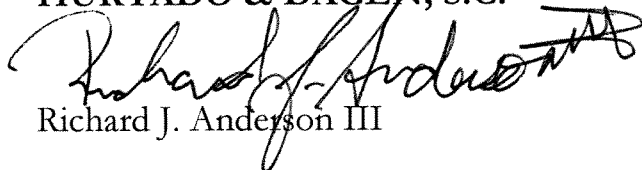
RE: Habermehl Electric, Inc. v. State of Wisconsin, Department of Workforce
Development, et al
(Case No. 02CV0430)

Dear Senator Robson and Representative Grothman:

Enclosed please find a copy of the Summons and Complaint in the above matter. This copy is being served upon the Joint Committee for Review of Administrative Rules pursuant to Section 227.40(5), of the Wisconsin Statutes.

If you have further questions, need additional copies or would like to discuss this matter, please feel free to contact the undersigned. Thank you for your attention to this matter.

Very truly yours,
HURTADO & DAGEN, S.C.


Richard J. Anderson III

Encls.

STATE OF WISCONSIN : CIRCUIT COURT : DANE COUNTY

HABERMEHL ELECTRIC, INC.,
9542 S. 58th Street,
Franklin, Wisconsin, 53132
A Wisconsin corporation,

Plaintiff/Petitioner,

Summons

v.

Case No. 02CV0430

THE STATE OF WISCONSIN,
DEPARTMENT OF WORKFORCE
DEVELOPMENT
201 E. Washington Avenue,
Madison, Wisconsin, 53703, and

Case Code: 30607—
Administrative Agency Review
30701—Declaratory Judgment

THE STATE OF WISCONSIN
DEPARTMENT OF TRANSPORTATION
4802 Sheboygan Avenue,
PO Box 7916,
Madison, WI 53707

Defendants/Respondents.

THIS IS AN AUTHENTICATED COPY OF THE
ORIGINAL DOCUMENT FILED WITH THE DANE
COUNTY CLERK OF CIRCUIT COURT.

JUDITH A. COLEMAN
CLERK OF CIRCUIT COURT

SUMMONS

THE STATE OF WISCONSIN

To each person named above as a defendant:

You are hereby notified that the plaintiff named above has filed a lawsuit or other action against you. The complaint, which is attached, states the nature and basis of the legal action.

Within 45 days of receiving this Summons, you must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the Complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is Dane County Courthouse, 210 Martin Luther King Jr. Blvd., Madison, Wisconsin,

DANE COUNTY, WI
FEB 8 12 29 PM '02
CIRCUIT COURT

and to Hurtado & Dagen, S.C., Plaintiff's attorneys, whose address is 19395 West Capitol Drive, Suite 200, Brookfield, WI 53045. You may have an attorney help or represent you.

If you do not provide a proper answer within 45 days, the court may grant judgment against you for the award of money or other legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Furthermore, you are hereby notified that the petitioner named above has filed a petition for review against you. The petition for review, which is attached, states the nature and basis of the legal action.

Pursuant to Sec. 227.53 (2), Wis. Stats.

"Every person served with the petition for review as provided by this section and who desires to participate in the proceedings for review thereby instituted shall serve upon the petitioner, within 20 days after service of the petition upon such person, a notice of appearance clearly stating the person's position with reference to each material allegation in the petition and to the affirmance, vacation or modification of the order or decision under review. Such notice, other than by the named respondent, shall also be served on the named respondent and the attorney general, and shall be filed, together with proof of service thereof, with the clerk of the reviewing court within 10 days after such service. Service of all subsequent papers or notices in such proceeding need be made only upon the petitioner and such other persons as have served and filed the notice as provided in this subsection or have been permitted to intervene in said proceeding, as parties thereto, by order of the reviewing court."

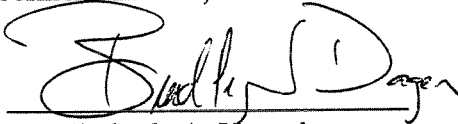
The notice of appearance must be delivered to the court, whose address is 210 Martin Luther King Jr. Blvd., Madison, WI 53709 and to petitioner's attorney whose address is Hurtado & Dagen, S.C., 19395 W. Capitol Dr., Suite 200, Brookfield, WI 53045.

Further, pursuant to Sec. 227.55, Wis. Stats., within 30 days after service of the petition for review upon the agency, or within such further time as the court may allow, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceedings in which the decision under review was made including all pleadings, notices, testimony,

exhibits, findings, decisions, orders and exceptions, therein.

Dated this 8th day of February, 2002.

Hurtado & Dagen, S.C., Attorneys for Petitioner,
Habermehl Electric, Inc.

By: 

Kimberly A. Hurtado
State Bar No. 1006335
Bradley J. Dagen
State Bar No. 1013073

P.O. Address

Hurtado & Dagen, S.C.
19395 W. Capitol Dr.
Suite 200
Brookfield, WI 53045
PH: (262) 783-1705
FX: (262) 783-1707