

## APPENDIX

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**APPENDIX**

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STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH III & VII

BROWN COUNTY

STATE OF WISCONSIN,

Plaintiff,

FILED

MAR -4 2020

DECISION AND ORDER

vs.

ROBERT E. HAMMERSLEY, CLERK OF COURTS  
BROWN COUNTY, WICase No. 05CF361  
08CF1114

Defendant/Respondent

On December 13, 2019, the defendant filed a motion in the above files which he entitled "974.06 MOTION AND/OR CORAM NOBIS FOR POST-CONVICTION REVIEWAL OF THE ENTRAPPED-INTO HIJACKING OF THE WARRANTLESS UNANNOUNCED HOME INVASION PAROLE SEARCH SUBTERFUGE FOR CRIMINAL ARRESTS, ON OCTOBER 17, 2008, WITH BLACKJACKED PAROLE-HELD WARRANTLESS FORCED GURNEY-BOUND HEAD-CLASPED DEMANDED BLOOD EXTRACTION."

By way of background, Mr. Hammersley was convicted in 05-CF-361 of Operating While Intoxicated—5<sup>th</sup> and subsequent offense in Branch VII of the Brown County Circuit Court. The matter was heard in front of the now deceased Judge Richard J. Dietz. This matter has since been transferred to the Honorable Timothy A. Hinkfuss. Mr. Hammersley entered a guilty plea. He received a sentence of 18 months initial confinement followed by a period of 24 months extended supervision. In 05-CF-361, Mr. Hammersley never filed a direct appeal. In 08-CF-1114, Mr. Hammersley was convicted of Operating While Intoxicated—6<sup>th</sup> after a jury trial in Branch III of the Brown County Circuit Court in front of retired Judge Sue Bischel. This matter has since been transferred to the Honorable Tammy Jo Hock. He received a sentence of three years initial confinement followed by three years of extended supervision.

Mr. Hammersley is currently facing OWI (7<sup>th</sup>, 8<sup>th</sup> or 9<sup>th</sup>) and Operating with PAC (7<sup>th</sup>, 8<sup>th</sup> or 9<sup>th</sup>) in Case No. 18-CF-407. This incident allegedly occurred on March 14, 2018. It is scheduled for a status conference on April 27, 2020, beginning at 9:30 a.m.

The Court is denying Mr. Hammersley's Petition for Waiver of Fees and Costs, the 974.06 motion and the motion for Coram Nobis in both files for the reasons below.

First of all with respect to the Petition for Waiver of Fees and Costs, the Court does not know what Mr. Hammersley is talking about and the Court is not going to speculate. The Court is not sure for what Mr. Hammersley is asking the Court to waive fees. Further, the form is incomplete as submitted to the Court. It is for this reason that the Court is rejecting the form.

Secondly, with regard to the 974.06 motion, Mr. Hammersley needs to be in custody on the files in which he is complaining. Also, Mr. Hammersley previously filed in both files a 974.06 motion which was denied and motion for reconsideration of the denial was also denied. He is well past in-custody status. He is no longer in custody on either file. He lists his current address as 309 Bayside Road, Little Suamico, Wisconsin. The Wisconsin Judicial Benchbook Criminal reads: "Custody is 'rigid' condition for subject-matter jurisdiction imposed by legislature." (CR42-7.) (See *Jessen v. State*, 95 Wis. 2d 207 (1980).)

Thirdly, this Court is denying the Writ of Coram Nobis in 05-CF-361 and 08-CF-1114. In 2011, the Court denied these actions and has been upheld by the court of appeals. There is nothing new in either file that would support a Writ of Coram Nobis. Barron's Law Dictionary, 1991, defines Writ of Coram Nobis as:

"Lat: before us; in our presence, i.e., in our court. The purpose of the writ 'is to bring the attention of the court to, and obtain relief from, errors of fact, such as . . . a valid defense existing in the facts of the case, but which, without negligence on the part of the defendant, was not made, either through duress or fraud or excusable mistake; these facts not appearing on the face of the record [nor being facts that,] if known in season, would have prevented the rendition and entry of

the judgment questioned....[Thus,] writ does not lie to correct errors of law.' 198 P. 2d 505, 506. It is addressed to the court that rendered the judgment in which injustice was allegedly done, in contrast to appeals or review, which are directed to another court. 269 N.Y.S. 2d 983, 96. It is another name for "WRIT OF ERROR CORAM NOBIS." Sometimes it is referred to simply as 'CORAM NOBIS.' Compare new trial motion."

In 2011, Mr. Hammersley filed a Petition for Waiver of Fees, a Motion for Writ of Coram Nobis and motion under Wis. Stats. §974.06 in Case No. 05-CF-361. The Court denied all of his motions. Mr. Hammersley then went through the various appellate processes and the trial court was upheld. The court of appeals' case numbers are 11AP1999CR, 11AP1333CR and 2012AP17-W. Mr. Hammersley has filed two John Doe motions and Motions for Reconsideration. All these motions were denied. Therefore, it is a mystery as to why Mr. Hammersley is once again filing these same motions.


However, the Court believes it knows why. It appears that Mr. Hammersley wants to challenge a prior OWI conviction from the State of California. This challenge could affect his priors to impact what he is now facing. To uphold the challenge, the number of prior OWIs for Mr. Hammerlsey would be reduced. To do that, he thinks he needs to have the Court grant one of his motions.

What Mr. Hammersley does not understand is that the Writ of Coram Nobis requires a mistake of fact, not of law. It is a question of law where the court made a determination of the number of OWI priors of Mr. Hammersley. A legal error may not be challenged by a Writ of Coram Nobis. Clearly, Mr. Hammersley does not like that. The collateral attack of OWI priors is a legal error. He enclosed 555 pages to support his motions. Mr. Hammersley lists 41 grounds supporting his motion. There is nothing in either file that would constitute a mistake of fact.

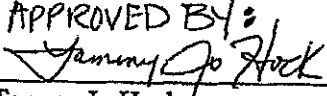
In summary, the Court is denying all of the motions.

Dated at Green Bay, Wisconsin, this 28 day of February, 2020.

BY THE COURT:

  
\_\_\_\_\_  
Timothy A. Winkfuss  
Circuit Court Judge, Branch VII

BY THE COURT:

APPROVED BY:  
  
\_\_\_\_\_  
Tammy Jo Hock  
Circuit Court Judge, Branch III



-0249 R02/15 www.azdot.gov

Mail Drop 504M  
Film Research Unit  
Motor Vehicle Division  
PO Box 2100  
Phoenix AZ 85001-2100

## RECORD RESEARCH RESPONSE

Notice Date  
12/20/2018

Name or Reference

Vehicle Identification Number

Plate Number      Year      Make

Robert Edgar Hammersley  
309 Bayside Road  
Little Suamico, WI 54141

Dear Customer:

- ☐ In response to your request, there is no existing driver or vehicle record in the Arizona record system based on the information you provided, shown below.

Licensee Full Name:

Driver Date of Birth:

Arizona Driver License Number:

Arizona License Plate Number:

Vehicle Identification Number:

- ☒ As of this date, we have forwarded a copy of your notification to the registered owners and, where applicable, the legal owners of the vehicle shown above.
- ☐ Our records indicate that you are the registered owner/legal owner of the vehicle with the license plate or vehicle identification number shown above. We are prohibited by statute from releasing your name and address to the person who sent the documents to us. Therefore, we are forwarding the enclosed documents to you. We are acting only as a forwarding agent and have no information on the matter other than what we have enclosed with this form.
- ☐ We are returning your request in reference to the vehicle shown above, because the Arizona license plate number and vehicle identification number do not match our records. You will need to contact the agency in your area on what additional steps are required.
- ☐ As of this date, we are unable to locate any vehicles for the individual shown above.
- ☐ ARO (Arizona Registration Only). No Arizona Certificate of Title has been issued. The out of state title is held by a lienholder.
- ☐ According to our computer and film records, the individual shown is not the registered owner of the vehicle shown above.
- ☒ Other:  
The documents you have requested have exceeded our 10-year retention and are no longer on file.

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If you have questions, please call Phoenix 602-255-0072, Tucson 620-629-9808, elsewhere in Arizona 800-251-5866, (Hearing/Speech Impaired-TDD systems only: Phoenix 602-712-3222, elsewhere 800-324-5425). Thank You.



## Wisconsin Department of Transportation

wisconsin.gov

Division of Motor Vehicles  
4822 Madison Yards Way  
PO Box 7983  
Madison, WI 53707-7983

This driver record abstract was created on 11/09/2018 at 02:48:44 PM by DOTOJF. The information is current as of this date and time.

Driver ID : H562-7657-6103-07 Sex : MALE DOB : 03-23-1976  
Customer# : 14134920570 LPC : U.S. CITIZEN Age : 42  
Hair : RED/AUBURN Eyes : BROWN Height : 6'00  
Weight : 175 Org Donor: N Opt Out: N

ROBERT EDGAR HAMMERSLEY  
309 BAYSIDE RD  
LITTLE SUANICO, WI 54141

Updated On : 07-06-2005  
County : JOCONTO

Card Name(s) : HAMMERSLEY ROBERT EDGAR (REGULAR LICENSE)

## Additional Customer Information

Other Known Names:  
ROBERT E HAMMERSLEY  
Sex: MALE DOB: 03-23-1976

## Regular License

Card Name : HAMMERSLEY ROBERT EDGAR  
Product : 18246951160  
Issued : 06-01-2018  
Expires : 03-23-2023  
App Type : DUPLICATE  
Class : D  
Status : VAL  
Restrictions : No Operation With Alcohol Level More Than .02

Suspended : 06-21-2018 FOR 6 MONTHS File : S010607  
Reason : BAC-BLOOD ALCOHOL CONTENT VIOLATION DATE 03-14-2018  
Authority : DOT ACTION  
Released : 10-23-2018  
Mailed To : 06-21-2018 TO 309 BAYSIDE RD, LITTLE SUANICO, WI 54141

Accident : 03-14-2018  
Accident# : 180305514  
Severity : PROPERTY DAMAGE  
County : BROWN  
Operation : CLASS D

Violation : 03-14-2018  
Conviction : 06-21-2010

VACATE  
Points : 00

ROBERT EDGAR HAMMERSLEY



Driver ID: H562-7657-6103-07

Reason : BAC-BLOOD ALCOHOL CONTENT  
 Operation : CLASS D  
 Court Name : DOT ACTION  
 Non UTC : BB494625-5  
 ACD Code : A98  
 See File : S010667  
 Directive : VACATE CONVICTION  
 Statute : 343.305(7)

Violation : 10-11-2016

Conviction : 01-05-2017

GUILTY

Points : 06

Reason : CMI-COMPULSORY INSURANCE - NO INSURANCE  
 Operation : CLASS D  
 Court Name : SUAMICO VILLAGE MUNICIPAL COURT - BROWN  
 UTC Number : CB99410-1  
 ACD Code : D36  
 Statute : 343.62(1)

Violation : 10-11-2016

Conviction : 11-10-2016

GUILTY

Points : 00

Reason : FFS-FAILURE TO FASTEN SEAT BELT  
 Operation : CLASS D  
 Court Name : SUAMICO VILLAGE MUNICIPAL COURT - BROWN  
 UTC Number : CB99408-6  
 ACD Code : F04  
 Statute : 347.49(2m)(b)

Reinstated : 01-02-2013

License Ty : OPR

Revoked : 04-27-2010 FOR 3 YEARS

File : B900977

Reason : OWI-OPERATING WHILE INTOXICATED

Same Credit File : S021961

Authority : BROWN COUNTY CIRCUIT COURT

Court Case : 2008CF001114

Eligible : 10-28-2013

Reinstated : 01-02-2013

Mailed To : 06-24-2010 TO 3265 CRAWFORD LN, GREEN BAY, WI 54304

Reduced to Days : 914 (Credit Days: 181)

Cancelled : 01-12-2009 FOR 1379 DAYS

File : C183123

Reason : NCI-NON-COMPLIANCE / APPEAR FOR ASSESSMENT INTERVIEW

Authority : DOT ACTION

Affected : CLASS D

Eligible : 10-23-2013

Reinstated : 01-02-2013

Mailed To : 01-13-2009 TO 3265 CRAWFORD LN, GREEN BAY, WI 54304

DWV Work Area : ALCOHOL AND DRUG REVIEW UNIT

Suspended : 11-28-2008 FOR 6 MONTHS

File : S021961

Reason : BAC-BLOOD ALCOHOL CONTENT VIOLATION DATE 10-27-2008

Same Credit File : B900977

Authority : DOT ACTION

Eligible : 05-29-2009

ROBERT EDGAR HAMMERLIN

Driver ID: H362-7657-6103-07

Reinstated : 01-02-2013  
Mailed To : 11-28-2008 TO 2265 CARRY LN, GREEN BAY, WI 54304  
Violation : 10-17-2008  
Conviction : 04-27-2010  
Reason : OWI-OPERATING WHILE INTOXICATED  
Operation : CLASS D  
Court Name : BROWN COUNTY CIRCUIT COURT  
Court Case : 2008CF001114  
UTC Number : J753559-2  
ACD Code : A21  
See File : R900977  
Statute : 346.63(1)(a)

GUILTY  
Points : 06

Reinstated : 06-04-2007  
License Ty : OPR

Revoked : 11-14-2005 FOR 2 YEARS  
Reason : OWI-OPERATING WHILE INTOXICATED

File : R432219

Same Incdt File : R587375

Authority : BROWN COUNTY CIRCUIT COURT

Court Case : 2005CF000361

Eligible : 06-04-2007

Reinstated : 06-04-2007

Mailed To : 11-17-2005 TO 305 EATON RD, LITTLE SUMMIT, WI 54141

Reduced to Days : 566 (Credit Days: 163)

Cancelled : 06-14-2005 FOR 605 DAYS

File : C099736

Reason : MCI-NON-COMPLIANCE / APPR2 FOR ASSESSMENT INTERVIEW

Authority : DOT ACTION

Affected : CLASS D

Eligible : 04-30-2007

Reinstated : 06-04-2007

Mailed To : 06-14-2005 TO 1013 SMITH ST #2, GREEN BAY, WI 54302-2407

New Work Area : ALCOHOL AND DRUG REVIEW UNIT

Suspended : 06-04-2005 FOR 6 MONTHS

File : R587375

Reason : BAC-BLOOD ALCOHOL CONTENT VIOLATION DATE 04-02-2005

Same Incdt File : R432219

Authority : DOT ACTION

Eligible : 12-05-2005

Reinstated : 06-04-2007

Mailed To : 06-06-2005 TO 1013 SMITH ST #2, GREEN BAY, WI 54302-2407

Violation : 04-02-2005

GUILTY

Conviction : 11-14-2005

Points : 06

Reason : OWI-OPERATING WHILE INTOXICATED

Operation : CLASS D

Court Name : BROWN COUNTY CIRCUIT COURT

Court Case : 2005CF000351

UTC Number : F090174-0

ACD Code : A21

See File : R432219

Statute : 346.63(1)(a)

ROBERT EDGAR HAMMERSLEY

-108-

Driver ID: H562-7637-6103-07

Reinstated : 10-25-2004  
License Ty : OPR

Revoked : 10-17-2003 FOR 1 YEAR File : R249112  
Reason : OWI-OPERATING WHILE INTOXICATED  
Authority : DOT ACTION  
Eligible : 10-17-2004  
Reinstated : 10-25-2004  
Mailed To : 01-02-2004 TO 1013 SMITH ST #2, GREEN BAY, WI 54302-2407

Revoked : 11-30-2001 FOR 634 DAYS File : R056321  
Reason : NCP-NON-COMPLIANCE / DRIVER SAFETY PLAN  
Authority : DOT ACTION  
Eligible : 08-26-2003  
Reinstated : 10-25-2004  
Mailed To : 11-30-2001 TO 309 BAYSIDE RD, LITTLE SUAMICO, WI 54141-2407

Violation : 10-01-2001 GUILTY  
Conviction : 10-17-2003 Points : 00  
Reason : OWI-OPERATING WHILE INTOXICATED  
Operation : CLASS D  
State : ARIZONA  
ACD Code : A20  
See File : R249112

Revoked : 01-12-1999 FOR 26 MONTHS File : R345763  
Reason : OWI-OPERATING WHILE INTOXICATED  
Same Incdt File : S066084  
Authority : BROWN COUNTY CIRCUIT COURT BR 8  
Eligible : 12-23-2000  
Reinstated : 10-25-2004  
Mailed To : 04-08-1999 TO 309 BAYSIDE RD, LITTLE SUAMICO, WI 54141  
Reduced to Days : 710 (Credit Days: 90)

Suspended : 10-29-1998 FOR 1042 DAYS File : S614141  
Reason : NCA-NON COMPLIANCE / ARREST WHILE IN DRIVER SAFETY PLAN  
Authority : DOT ACTION  
Eligible : 09-05-2001  
Reinstated : 10-25-2004  
Mailed To : 10-29-1998 TO 309 BAYSIDE RD, LITTLE SUAMICO, WI 54141

Suspended : 10-24-1998 FOR 6 MONTHS File : S066084  
Reason : BAC-BLOOD ALCOHOL CONTENT VIOLATION DATE 09-19-1998  
Same Incdt File : R345763  
Authority : DOT ACTION  
Eligible : 04-25-1999  
Reinstated : 10-25-2004  
Mailed To : 10-26-1998 TO 309 BAYSIDE RD, LITTLE SUAMICO, WI 54141

Violation : 09-19-1998 GUILTY  
Conviction : 01-12-1999 Points : 06  
Reason : OWI-OPERATING WHILE INTOXICATED  
Operation : CLASS D  
Court Name : BROWN COUNTY CIRCUIT COURT BR 8

ROBERT EDGAR HAMMERSLEY

-109-

Driver ID: H563-7637-6103-07

UTC Number : Y893338-5  
ACD Code : A21  
See File : R345763

Reinstated : 09-01-1998  
License Ty : OPR

Suspended : 09-15-1997 FOR 331 DAYS File : S264756  
Reason : NCI-NON-COMPLIANCE / APPEAR FOR ASSESSMENT INTERVIEW  
Authority : DOT ACTION  
Eligible : 08-12-1998  
Reinstated : 09-01-1998  
Mailed To : 09-15-1997 TO 309 BAYSIDE RD, LITTLE SUANICO, WI 54141

Revoked : 06-10-1997 FOR 1 YEAR File : R130072  
Reason : OWI-OPERATING-WHILE-INTOXICATED  
Same Incdt File : S026133  
Authority : MANITOWOC COUNTY CIRCUIT COURT  
Eligible : 04-22-1998  
Reinstated : 09-01-1998  
Mailed To : 10-07-1997 TO 309 BAYSIDE RD, LITTLE SUANICO, WI 54141  
Reduced to Days : 315 (Credit Days: 45)

Suspended : 04-22-1997 FOR 6 MONTHS File : S026133  
Reason : BAC-BLOOD ALCOHOL CONCENTRATION VIOLATION DATE 03 16 1997  
Same Incdt File : R130072  
Authority : DOT ACTION  
Eligible : 10-23-1997  
Reinstated : 09-01-1998  
Mailed To : 04-22-1997 TO 309 BAYSIDE RD, LITTLE SUANICO WI 54141

Violation : 03-16-1997 GUILTY  
Conviction : 06-10-1997 Points : 06  
Reason : OWI-OPERATING WHILE INTOXICATED  
Operation : CLASS D  
Court Name : MANITOWOC COUNTY CIRCUIT COURT  
UTC Number : W965629-4  
ACD Code : A21  
See File : R130072

Revoked : 11-27-1995 FOR 1 YEAR File : R269481  
Reason : IC-IMPLIED CONSENT REFUSAL DATE 10-28-1995  
Authority : OCONTO COUNTY CIRCUIT COURT  
Eligible : 11-27-1996  
Reinstated : 09-01-1998  
Mailed To : 01-03-1996 TO 309 BAYSIDE RD, LITTLE SUANICO, WI 54141

Violation : 10-28-1995 GUILTY  
Conviction : 11-27-1995 Points : 00  
Reason : IC-IMPLIED CONSENT  
Operation : CLASS D  
Court Name : OCONTO COUNTY CIRCUIT COURT  
ACD Code : R12  
See File : R269481

ROBERT EDGAR HAMMERSLEY

-110-

Driver ID: H562-7657-6103-07

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End of Record

ROBERT EDGAR HAMMERSLEY

-///-

SAN LUIS MUNICIPAL COURT  
COUNTY OF YUMA, STATE OF ARIZONA

SAN LUIS  
MUNICIPAL COURT  
RECEIVED

STATE OF ARIZONA, Plaintiff -vs- <u>ROBERT HAMMERSLEY, Defendant</u> Date of Birth: <u>03/23/1976</u>	Case Number: <u>M1447TR2001 01991</u>  <b>ORDER REGARDING APPLICATION TO SET ASIDE CONVICTION A.R.S. §§13-905</b>
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Based upon the information presented to the Court, **THE COURT FINDS THAT:**

The prosecutor has received a copy of the Application to Set Aside Conviction.

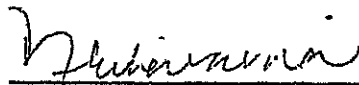
[ X ] The defendant ~~has met~~ all statutory requirements for the application;

**IT IS ORDERED:**

[ X ] **GRANTING** the application setting aside the judgment of guilt, dismissing the complaint, information, or indictment, and that the applicant be released from all penalties and disabilities resulting from the conviction except those imposed by:


- a. The Department of Transportation pursuant to A.R.S. §§ 28-3304, 28-3305, 28-3306, 28-3307, 28-3308, 28-3312, and 28-3319.
- b. The Game and Fish Commission pursuant to A.R.S. §§ 17-314 or 17-340.

DATED this 26<sup>th</sup> day of February 2020.

  
\_\_\_\_\_  
Judicial Officer

Copy of the foregoing mailed on  
February 26, 2020 to:

Robert Hammersley, Defendant/Applicant  
309 Bayside Road  
Little Suamico, WI 54141

By:  \_\_\_\_\_



OFFICE OF THE CLERK  
**WISCONSIN COURT OF APPEALS**

110 EAST MAIN STREET, SUITE 215

P.O. BOX 1688

MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880

TTY: (800) 947-3529

Facsimile (608) 267-0640

Web Site: [www.wicourts.gov](http://www.wicourts.gov)**DISTRICT III**

November 13, 2020

To:

Hon. Timothy A. Hinkfuss  
Circuit Court Judge  
Brown County Courthouse  
P.O. Box 23600  
Green Bay, WI 54305-3600

John VanderLeest  
Clerk of Circuit Court  
Brown County Courthouse  
P.O. Box 23600  
Green Bay, WI 54305-3600

Winn S. Collins  
Assistant Attorney General  
Wisconsin Department of Justice  
PO Box 7857  
Madison, WI 53707-7857

Robert E. Hammersley  
309 Bayside Rd.  
Little Suamico, WI 54141

Hon. Randy R. Koschnick  
Director of State Courts  
P.O. Box 1688  
Madison, WI 53701-1688

You are hereby notified that the Court has entered the following opinion and order:

2020AP1060-W	State of Wisconsin ex rel. Robert E. Hammersley v. Circuit Court Brown Co. (L.C. # 2005CF361)
2020AP1061-W	State of Wisconsin ex rel. Robert E. Hammersley v. Circuit Court Brown Co. (L.C. # 2008CF1114)

Before Stark, P.J., Hruz and Seidl, JJ.

Robert Hammersley petitions for a writ of prohibition seeking review of circuit court decisions that denied his petition for a writ of coram nobis and motions for judicial notice. This court will not issue a supervisory writ unless the circuit court has clearly violated a plain legal duty, the party seeking relief has acted promptly, and faces grave hardship or irreparable harm for which there is no other adequate remedy at law. *State ex rel. Kalal v. Cir. Ct. for Dane Cty.*, 2004 WI 58, ¶17, 271 Wis. 2d 633, 681 N.W.2d 110; *State ex rel. Dressler v. Racine Cty. Cir.*

Nos. 2020AP1060-W  
2020AP1061-W

*Ct.*, 163 Wis. 2d 622, 630, 472 N.W.2d 532 (Ct. App. 1991). A writ is not the appropriate procedure here because an appeal was an available avenue for seeking a remedy.

IT IS ORDERED that the petition for a writ of prohibition is denied.

---

*Sheila T. Reiff*  
*Clerk of Court of Appeals*





OFFICE OF THE CLERK  
**WISCONSIN COURT OF APPEALS**

110 EAST MAIN STREET, SUITE 215

P.O. BOX 1688

MADISON, WISCONSIN 53701-1688

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Web Site: [www.wicourts.gov](http://www.wicourts.gov)

**DISTRICT III**

June 1, 2022

To:

Hon. Timothy A. Hinkfuss  
Circuit Court Judge  
Electronic Notice

John VanderLeest  
Clerk of Circuit Court  
Brown County Courthouse  
Electronic Notice

David L. Lasee  
Electronic Notice

Loryn Lange Limoges  
Electronic Notice

Robert E. Hammersley  
309 Bayside Road  
Little Suamico, WI 54141

You are hereby notified that the Court has entered the following opinion and order:

2020AP837  
2020AP838

State of Wisconsin v. Robert E. Hammersley  
(L.C. Nos. 2005CF361, 2008CF1114)

Before Stark, P.J., Hruz and Gill, JJ.

**Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).**

Robert Hammersley, pro se, appeals an order denying his WIS. STAT. § 974.06 (2019-20)<sup>1</sup> motion for postconviction relief or, alternatively, for a writ of error coram nobis. Hammersley also appeals the order denying his motion for reconsideration. Hammersley challenges two previous convictions for operating while intoxicated ("OWI"). Based upon our review of the briefs and records, we conclude at conference that this case is appropriate for summary disposition. We reject Hammersley's arguments, and we summarily affirm the orders. *See* WIS. STAT. RULE 809.21.

<sup>1</sup> All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

In Brown County case No. 2005CF361, Hammersley was convicted upon his guilty plea of OWI, as a fifth offense. On August 30, 2005, the circuit court sentenced him to eighteen months' initial confinement and twenty-four months' extended supervision. In Brown County case No. 2008CF1114, Hammersley was convicted upon a jury's verdict of OWI, as a sixth offense. On April 27, 2010, Hammersley was sentenced to three years' initial confinement and three years' extended supervision.

In December 2019, Hammersley filed the underlying WIS. STAT. § 974.06 motion and alternative request for a writ of error coram nobis.<sup>2</sup> The circuit court denied both the motion and the writ request, as well as Hammersley's subsequent motion for reconsideration. These appeals follow.

With respect to Hammersley's request for relief pursuant to WIS. STAT. § 974.06, that statute permits defendants to bring jurisdictional or constitutional challenges to their sentences after the time for filing an appeal or postconviction motion has otherwise expired. *See* § 974.06(1). However, to bring a motion under § 974.06, a defendant must be "a prisoner in custody under sentence of a court," and must be "claiming the right to be released upon the ground that the sentence was imposed" in violation of a constitutional or jurisdictional provision or is otherwise subject to collateral attack. Sec. 974.06(1). Thus, a defendant who is no longer in custody may not bring a motion under § 974.06. *Jessen v. State*, 95 Wis. 2d 207, 211, 290 N.W.2d 685 (1980). Hammersley concedes, and the records show, that he is no longer in

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<sup>2</sup> The filing was identified by Hammersley as follows: "974.06 Motion and/or Coram Nobis for Post-Conviction Reviewal of the Entrapped-Into Hijacking of the Warrantless Unannounced Home Invasion Parole Search Subterfuge for Criminal Arrests, on October 17, 2008, with *Blackjacked Parole-Held Warrantless Forced Gurney-Bound Head-Clasped Demanded Blood Extraction*." (Alterations in original.)

Nos. 2020AP837  
2020AP838

custody for his convictions in case Nos. 2005CF361 and 2008CF1114. Therefore, he is not entitled to relief under § 974.06.

Hammersley's alternative request for a writ of error coram nobis likewise fails. To obtain a writ of coram nobis, a petitioner must establish: (1) that "no other remedy is available"; and (2) that there was "an error of fact which was unknown at the time of [the trial or] [the plea] and which is of such a nature that knowledge of its existence at the time ... would have prevented the entry of judgment." See *State ex rel. Patel v. State*, 2012 WI App 117, ¶13, 344 Wis. 2d 405, 824 N.W.2d 862 (citation omitted). The writ of coram nobis "is of very limited scope," and it is not applicable to remedy errors traditionally corrected by appeal or by writ of habeas corpus. See *Jessen*, 95 Wis. 2d at 213-14. As a result, coram nobis is not available to correct legal errors, including alleged constitutional errors. *State v. Kanieski*, 30 Wis. 2d 573, 577-79, 141 N.W.2d 196 (1966). Although a circuit court has discretion to grant or deny a writ of coram nobis, we may independently review the petition to determine whether, as a matter of law, there is any legal basis for the court's exercise of discretion. *State v. Heimermann*, 205 Wis. 2d 376, 386-87, 556 N.W.2d 756 (Ct. App. 1996).

While Hammersley, a criminal defendant no longer serving a sentence for the convictions challenged, has cleared the first hurdle required to obtain the writ, he has not cleared the second. Hammersley listed forty-one grounds to support his motion in the circuit court, including, as best we can understand, claims of entrapment, police misconduct, unlawful parole seizure, unlawful arrest, a warrantless gurney-bound blood draw, blood test forgery, prosecutorial misconduct, expert witness perjury, a fraudulent police report, and perjured blood chain trial testimony.

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As the circuit court stated in denying Hammersley's motion, it appears Hammersley sought to collaterally attack his prior OWI convictions to avoid an enhanced penalty for his current OWI charges. Although Hammersley maintains that his actual innocence with respect to his prior OWI convictions permits the writ he seeks, and that failing to grant the writ constitutes a manifest injustice, a defendant cannot attack the legal basis for a prior conviction through a writ of error coram nobis. *See Kanieski*, 30 Wis. 2d at 577-79. Ultimately, Hammersley has failed to show that the court incorrectly interpreted his petition as seeking to correct a legal error, rather than a factual error, as discussed above. Therefore, we conclude that the court properly denied Hammersley's alternative request for a writ of error coram nobis.

Upon the foregoing,

IT IS ORDERED that the orders are summarily affirmed. WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

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*Sheila T. Reiff*  
*Clerk of Court of Appeals*

JAN 20 2020

SAN LUIS MUNICIPAL COURT  
COUNTY OF YUMA, STATE OF ARIZONA

STATE OF ARIZONA, Plaintiff -vs- <u>ROBERT HAMMERSLEY, Defendant</u> Date of Birth: <u>03/23/1976</u>	Case Number: <u>M1447TR2001 01991</u>  <b>ORDER REGARDING APPLICATION TO SET ASIDE CONVICTION A.R.S. §§13-905</b>
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Based upon the information presented to the Court, **THE COURT FINDS THAT:**

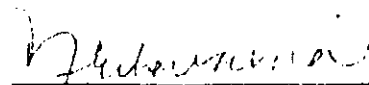
The prosecutor has received a copy of the Application to Set Aside Conviction.

[ X ] The defendant **has met** all statutory requirements for the application;

**IT IS ORDERED:**

- [ X ] **GRANTING** the application setting aside the judgment of guilt, dismissing the complaint, information, or indictment, and that the applicant be released from all penalties and disabilities resulting from the conviction **except those imposed by:**
- The **Department of Transportation** pursuant to A.R.S. §§ 28-3304, 28-3305, 28-3306, 28-3307, 28-3308, 28-3312, and 28-3319.
  - The **Game and Fish Commission** pursuant to A.R.S. §§ 17-314 or 17-340.

DATED this 26<sup>th</sup> day of February 2020.

  
\_\_\_\_\_  
Judicial Officer

Copy of the foregoing mailed on  
February 26, 2020 to:

Robert Hammersley, Defendant/Applicant  
309 Bayside Road  
Little Suamico, WI 54141

By: Daisy J



**San Luis Municipal Court**  
767 N. William Brooks - P.O. Box 1670  
San Luis, Arizona 85349-0429  
Office: (928) 341-8595 Fax: (928) 627-2335

## RECORDS CERTIFICATION

I, Nohemy Echavarria, Judge of the San Luis Municipal Court, County of Yuma, State of Arizona, hereby **CERTIFY** that this Court has searched Records for the matter listed below:

Defendant's Name	Case Number	Date of Birth
Robert Hammersley	TR200101991	03/23/1976

\_\_\_\_ Records were not found: \_\_\_\_\_

\_\_\_\_ Case was purged on: \_\_\_\_\_

X Case Closed: 04-18-2012  
Certification of Order  
Regarding Application  
to Set Aside Conviction  
\_\_\_\_\_

\*\*\* The San Luis Municipal Court destroys all court records according to our Retention Schedule, Pursuant to Administrative Order No. 91-12, Supreme Court Rule 79. \*\*\*

Dated this: Wednesday the 4<sup>th</sup> day of May 2022

Nohemy Echavarria  
Magistrate



OFFICE OF THE CLERK  
**WISCONSIN COURT OF APPEALS**

110 EAST MAIN STREET, SUITE 215

P.O. BOX 1688

MADISON, WISCONSIN 53701-1688

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Web Site: [www.wicourts.gov](http://www.wicourts.gov)**DISTRICT III****FILED****07-13-2022****CLERK OF WISCONSIN****COURT OF APPEALS**

July 13, 2022

To:

Hon. Timothy A. Hinkfuss  
Circuit Court Judge  
Electronic Notice

John VanderLeest  
Clerk of Circuit Court  
Brown County Courthouse  
Electronic Notice

David L. Lasee  
Electronic Notice

Loryn Lange Limoges  
Electronic Notice

Robert E. Hammersley  
309 Bayside Road  
Little Suamico, WI 54141

You are hereby notified that the Court has entered the following order:

2020AP837  
2020AP838

State of Wisconsin v. Robert E. Hammersley (L.C. # 2005CF361)  
State of Wisconsin v. Robert E. Hammersley (L.C. # 2008CF1114)

Before Stark, P.J., Hruz and Gill, JJ.

Robert Hammersley, pro se, has filed a motion for reconsideration of this court's June 1, 2022 opinion affirming an order that denied Hammersley's Wis. STAT. § 974.06 motion for postconviction relief or, alternatively, for a writ of error coram nobis. Contemporaneously with his reconsideration motion, Hammersley submitted two additional documents—both are entitled: "Petition for a 782 Writ of Habeas Corpus to the Appeals Court – District III; In continuance of the 974.06/Writ of Coram Nobis From Wisconsin Casefile Nos. 2005CF361, 2008CF1114, 2018CF407." One of the "petitions" seeks an order for "the charges and presentence entered 2018, for case no. 2018CF407, [to be] vacated set aside deemed wrongful, reversed, and void." The other submission seeks the same relief for case nos. 2005CF361 and 2008CF1114. Each document is further identified as: "Petition for 782 Habeas Corpus and Memorandum in support of Reconsidering 974.06/Writ of Coram Nobis."

No. 2020AP837

To the extent Hammersley intended all three submissions to be considered together as a motion for reconsideration of this court's June 1 opinion, nothing in the submissions alters this court's view of the matter or otherwise warrants reconsideration. To the extent Hammersley intended to separately file habeas petitions, we will not docket the present submissions as writ petitions. Each petition should be filed separately, and Hammersley must either pay the filing fee for each petition or file a petition for waiver of the fee for *each* petition. Moreover, the petitions are not verified as required by WIS. STAT. § 782.04. See *State ex rel. Santana v. Endicott*, 2006 WI App 13, ¶10-11, 288 Wis. 2d 707, 709 N.W.2d 515.

Upon the foregoing,

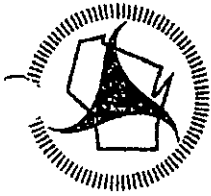
IT IS ORDERED that the motion for reconsideration is denied.

IT IS FURTHER ORDERED that to the extent Hammersley intended to submit two separate habeas petitions, we will take no action on the petitions for the reasons discussed above.

---

Sheila T. Reiff  
Clerk of Court of Appeals





## Wisconsin Department of Transportation

[www.dot.wisconsin.gov](http://www.dot.wisconsin.gov)

Tony Evers  
Governor

Craig Thompson  
Secretary

Office of General Counsel  
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P.O. Box 7910  
Madison, WI 53707-7910

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March 17, 2021

Robert E. Hammersley  
309 Bayside Road  
Little Suamico, WI 54141

RE: DMV Driver Record

Dear Mr. Hammersley:

You wrote to the DMV Citations and Withdrawal Section by letter dated March 9, 2021, requesting it review various items appearing on an abstract of your driver record maintained by the Division of Motor Vehicles. You also requested DMV reconsider whether your operating privilege is subject to a .02 alcohol concentration restriction. We have reviewed your driver record and conclude that the citations shown on the record are appropriately on the record. I will discuss each item you raised in your letter and advise as to why the entry appears to be appropriate. We further concluded that the alcohol restriction on your record at present is appropriate, because it accurately reflects the effects of Wisconsin law upon a driver who has committed repeated acts related to intoxicated use of a motor vehicle.

The first driver record entry of apparent concern to you is a 1995 determination by the Oconto County Circuit Court that you refused chemical tests after being arrested for a drinking-and-driving related offense. You appear to believe that a criminal conviction for that offense appears on your driver record. That is incorrect. The driver record shows a determination of "guilty" on the refusal matter and that your operating privilege was revoked for a one-year period as a result of that determination. That is how a refusal is shown on a Wisconsin driver record. The only way to have the item removed from your driver record would be to have the courts reopen and vacate its 1995 finding. Therefore, the entry will not be removed from your driver record.

The second item you write about is a conviction in the State of Arizona for operating while intoxicated in that state on October 1, 2003. You were convicted of that violation on October 17, 2003. You suggest in your letter that the Arizona conviction has been "set aside." DMV has received no official correspondence from the State of Arizona regarding any reopening or vacating of that conviction. If the conviction has indeed been vacated, please forward a certified copy of the order of the court vacating the conviction. You are correct in asserting that DMV would not show the conviction on your Wisconsin record if the Arizona court that convicted you has indeed vacated that conviction.

The third item you write about is the .02 alcohol restriction that appears on your driver record. Under Wis. Stat. s. 340.01(46m), the prohibited alcohol concentration for a person whose has three or more prior convictions for alcohol-related offenses that are countable under Wis. Stat.

s. 343.307(1) is .02. Accordingly, a count of prior convictions appearing on your driver record is in order. It appears as though you have been convicted of the following offenses that are countable under Wis. Stat. s. 343.307(1):

1. Refusing chemical tests on 10-28-1995 (Judicial determination entered 11-27-1995 by Oconto County Circuit Court);
2. Operating while intoxicated on 3-16-1997 (Conviction entered on 6-10-1997 by Manitowoc County Circuit Court);
3. Operating while intoxicated on 9-19-1998 (Conviction entered on 1-12-1999 by Brown County Circuit Court);
4. Operating while intoxicated on 10-1-2001 (Conviction entered on 10-17-2003 in Arizona);
5. Operating while intoxicated on 4-2-2005 (Conviction entered on 11-14-2005 by the Brown County Circuit Court);
6. Operating while intoxicated on 10-17-2008 (Conviction entered on 4-27-2010 by the Brown County Circuit Court);

It appears as though you are currently being prosecuted for OWI in Brown County case number 2018CF000407. The court in that case will consider any arguments you or your counsel make about the countability of each of those listed prior offenses as part of that case. If the court finds any of the offenses have been vacated, as you suggest, please forward a copy of the court determination to that effect to this agency so that we may consider the court's findings.

In the meantime, it is not this agency's place to interfere in the function of the Brown County Circuit Court. The offenses you question are definitely appropriate for inclusion on your driver record given the records DMV has received to date. Because the law provides that any person with 3 or more prior offenses is subject to a .02 alcohol concentration restriction, that restriction is appropriate as well.

A person of your height and weight (as reported to DMV) may exceed a .02 alcohol concentration from a single mixed drink or beer. Accordingly, we recommend you treat the lower alcohol concentration restriction as an absolute prohibition on driving after consuming any alcoholic drink.

Very truly yours,

Citation and Withdrawal Section  
Division of Motor Vehicles

cc: Brown County District Attorney



OFFICE OF THE CLERK

# Supreme Court of Wisconsin

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Web Site: [www.wicourts.gov](http://www.wicourts.gov)

November 16, 2022

To:

Hon. Timothy A. Hinkfuss  
Circuit Court Judge  
Brown County Courthouse  
P.O. Box 23600  
Green Bay, WI 54305

John VanderLeest  
Clerk of Circuit Court  
Brown County Courthouse  
P.O. Box 23600  
Green Bay, WI 54305

David L. Lasee  
District Attorney's Office  
P.O. Box 23600  
Green Bay, WI 54305

Loryn Lange Limoges  
Assistant Attorney General  
P.O. Box 7857  
Madison, WI 53707

Robert E. Hammersley  
309 Bayside Road  
Little Suamico, WI 54141

You are hereby notified that the Court has entered the following order:

Nos. 2020AP837  
2020AP838

State v. Hammersley, L.C. #s 2005CF361 & 2008CF1114

A petition for review pursuant to Wis. Stat. § 808.10 having been filed on behalf of defendant-appellant-petitioner, Robert E. Hammersley, pro se, and considered by this court;

IT IS ORDERED that the petition for review is denied, without costs.

Sheila T. Reiff  
Clerk of Supreme Court

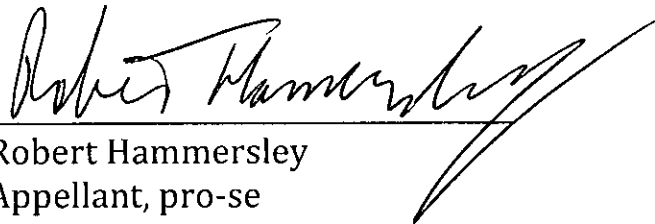
### CERTIFICATION AS TO APPENDIX

I certify that filed with this this Petition for Certiorari of appeal nos. 2020AP837-838, is an appendix that complies with the rules and that it contains, at a minimum: **(1)** table of contents; **(2)** the findings or opinion of the lower court and initialized *ex parte* discriminatory actions of the Wisconsin Supreme court; and **(3)** portions of the record essential to the understanding of the issues raised.

I further certify that this appeal is taken from a circuit court order and unethically discriminative *ex parte* Supreme Court dismissals.

Dated this 13th day of February, 2023.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Robert Hammersley", with a long, sweeping flourish extending from the end of the name.

Robert Hammersley  
Appellant, pro-se  
309 Bayside Road  
Little Suamico, WI 54141  
(920) 434-9322