

No. _____

IN THE
Supreme Court of the United States

RONALD MCCRAY

Petitioner,

v.

The CITY OF BELOIT, CHIEF OF POLICE DAVID
B. ZIBOLSKI in his individual and official capacities,
CAPTAIN DAN RISSE in his individual and official
capacities, SERGEANT EDMUND GATES in his
individual and official capacities, and OFFICER
KERRY DAUGHERTY in his individual and
official capacities,

Respondents.

**On Petition for a Writ of Certiorari to the
Wisconsin Court of Appeals; District IV**

**PETITIONER'S APPENDIX: VOLUME-1
PAGES 1-81**

Amended: January, 8, 2024

Filed: November 14, 2023

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Petitioner Proceeding Pro-Se

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Office of the Clerk
Supreme Court of Wisconsin
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[Stamped]: Received
AUG 19, 2023
By: s/ Ronald McCray

August 17, 2023

To:

Hon. Jeffrey Kuglitsch
Circuit Court Judge
Electronic Notice

Kyle W. Engelke
Electronic Notice

Jacki Gackstatter
Clerk of Circuit Court
Rock County Courthouse
Electronic Notice

Ronald McCray
2405 Sunshine Ln.
Beloit, WI 53511

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

No. 2021AP693 McCray v. City of Beloit
L.C.# 2018CV421

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

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

Samuel A. Christensen / Clerk of Supreme Court

Office of the Clerk
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DISTRICT IV

[Stamped]: Received
Mar 03, 2023
By: s/ Ronald McCray

March 2, 2023

To:

Hon. Jeffrey Kuglitsch
Circuit Court Judge
Electronic Notice

Kyle W. Engelke
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Jacki Gackstatter
Clerk of Circuit Court
Rock County Courthouse
Electronic Notice

Ronald McCray
2405 Sunshine Ln.
Beloit, WI 53511

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

2021AP693 Ronald McCray v. The City of Beloit
(L.C. # 2018CV421)

Before Fitzpatrick, Graham, and Nashold, 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).

Ronald McCray, pro se, appeals an order of the circuit court that denied his motion for rehearing of an action that was previously dismissed by the circuit court and subject to appellate review. After reviewing the briefs and record, we conclude at conference that this case is appropriate for summary disposition. See WIS. STAT. RULE 809.21 (2021-22).¹ We affirm the portion of the circuit court's order that denied McCray's motion for rehearing, and we reverse the portion of the order that sanctioned McCray pursuant to WIS. STAT. § 802.05.

¹ All references to the Wisconsin Statutes are to the 2021-22 version.

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Background

This is McCray's second appeal in the second of three actions that he filed in the circuit court, all of which stem from a Beloit Police Department investigation that occurred on February 23, 2017. Much of the following factual background is taken from our prior order, which summarily affirmed the circuit court's dismissal of McCray's second action. See ***McCray v. City of Beloit***, No. 2018AP1648, unpublished op. and order (Ct. App. July 26, 2019; as amended Aug. 30, 2019), *review denied* (WI Dec. 13, 2019). For ease of reference, we refer to that order as our "July 26, 2019 order."

On February 23, 2017, the Beloit Police Department received a call from an employee of a

Beloit dental office, who reported that McCray “got hold of some paper work” and was calling the office’s patients. A police officer made contact with McCray, who stated that he had found a patient list in his front yard and had called patients on the list to alert them that their personal information should be handled with more care. The officer determined that no crime had been committed and no ordinance violated, and he closed the investigation that day. McCray took issue with how the incident and investigation were described in a police incident report.

In August 2017, McCray commenced his first action, docketed as Rock County Case No. 2017CV689, by filing a complaint against the City of Beloit. In his complaint, McCray alleged that the police investigation was false and misdirected. The City moved to dismiss the complaint based on McCray’s failure to comply with WIS. STAT. § 893.80, which sets forth notice requirements for certain claims against governmental bodies.² Then, on September 28,

² WISCONSIN STAT. § 893.80(1d) and (1d)(a) provide, in relevant part:

(continued)

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2017, after receiving the City’s motion to dismiss, McCray served the City with a document entitled “Notice of Circumstances Giving Rise to Claim and Claim.”

The circuit court held a hearing on the City's motion to dismiss McCray's first action. Following the hearing, the court issued a final order which dismissed the complaint without prejudice. The court determined that any claim arising more than 120 days before McCray served his notice of claim on the City (that is, any claim arising before May 31, 2017) was "untimely pursuant to WIS. STAT. § 893.80." The court further determined that the claims in McCray's complaint were untimely because they arose before that date. McCray did not appeal the order dismissing his first action.

In April 2018, McCray commenced his second action, docketed as Rock County Case No. 2018CV421, by filing a complaint against the City and several of its police officers (collectively, the City). McCray's complaint alleged defamation and other claims, all related to the City's actions with respect to the February 23, 2017 phone call from the dental office. The City moved to dismiss the complaint. After a hearing, the circuit court found that all of McCray's claims related back to the February 23, 2017 phone call, and the court granted the motion to dismiss the complaint with prejudice. The court also determined that the defamation

[N]o action may be brought or maintained against any ... political corporation, governmental subdivision or agency thereof nor against any officer, official, agent or employee of the corporation, subdivision or agency for acts done in their official capacity or in the course of their agency or employment upon a claim or cause of action unless:

(a) Within 120 days after the happening of the event giving rise to the claim, written notice of the circumstances of the claim signed by the party, agent or attorney is served on the ... political corporation, governmental subdivision or

agency and on the officer, official, agent or employee under s. 801.11.

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claim did not state a claim for relief because none of the statements in the incident report were capable of a defamatory meaning. McCray appealed the order dismissing his second action.

On July 26, 2019, we summarily affirmed the circuit court's order dismissing McCray's second action. **McCray**, No. 2018AP1648. In our July 26, 2019 order, we concluded that "the latest any of McCray's claims arose was March 3, 2017," meaning that "McCray was required to file a notice of claim on or before July 2, 2017." **Id.** at 4. We further concluded that, because "McCray did not serve any notice of claim ... until September 28, 2017, which was well after the 120-day deadline ... had passed," McCray's second action was untimely and the circuit court properly dismissed his complaint for failure to comply with WIS. STAT. § 893.80(1d)(a). **Id.** McCray petitioned our supreme court for review of the July 26, 2019 order, and our supreme court denied his petition.

Meanwhile, when McCray's appeal of the dismissal of his second action was still pending, he filed a third action, docketed as Rock County Case No. 2019CV386, against various officials and employees of the City. This third action again related to the February 23, 2017 phone call. The defendants filed a motion to dismiss based on the doctrine of issue preclusion, and they also sought sanctions under WIS. STAT. § 802.05(3) for a frivolous filing.³ The circuit

³ WISCONSIN STAT. § 802.05(2) provides that, by signing, filing, or submitting a motion to a court, the signer is certifying that, “to the best of the person’s knowledge, information, and belief, formed after an inquiry reasonable under the circumstances”:

(a) The paper is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

(b) The claims, defenses, and other legal contentions stated in the paper are warranted by existing law or by a nonfrivolous argument

(continued)

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court entered an order dismissing McCray’s third action and awarding sanctions,⁴ and we ultimately affirmed the circuit court’s order and granted the defendants’ motion for sanctions for a frivolous appeal. *See McCray v. Luther*, No. 2019AP1993, unpublished op. and order (Ct. App. Apr. 15, 2021).

With this background in mind, we turn to the motion that is the subject of McCray’s current appeal. On December 11, 2020, McCray filed a “Motion for the Rehearing” of his second action, Case No. 2018CV421, “for Reasons of Fraud, Misrepresentation, and a Miscarriage of Justice.” On December 18, 2020, the City filed a letter with the circuit court, which it characterized as a safe harbor notice. In this letter, the City represented that it was sending a copy to McCray, and it notified McCray that, under WIS. STAT. § 802.05, “he ha[d] 21 days to

withdraw his motion [for rehearing].” The City’s letter to the court stated that the motion for rehearing was “fatally flawed,” and that McCray could not collaterally attack this court’s July 26, 2019 order by refiling a challenge in the circuit court. Then, on January 21, 2021, the City filed a second letter, which renewed the City’s warning “that [McCray] ha[d] 21 days to

for the extension, modification, or reversal of existing law or the establishment of new law.

WISCONSIN STAT. § 802.05(3) provides that a court “may impose an appropriate sanction upon the ... parties that have violated sub. (2) or are responsible for the violation” by granting a motion filed under paragraph (3)(a)1. Section 802.05(3)(a)1. provides that “[a] motion for sanctions under this rule ... shall not be filed with ... the court unless, within 21 days after service of the motion ... the challenged paper ... is not withdrawn.”

⁴ Specifically, the circuit court ordered McCray to pay attorney fees incurred by the City after a specified date, and the court’s order also provided that, “unless [McCray] is granted appellate relief in this action and/or the pending appeal in [Case No. 2018CV421], Plaintiff Ronald McCray is permanently enjoined from filing any further complaint or pleading against anyone that is in any way arising out of and/or related to the events of February 2017 and/or the allegations made in this action and/or [Case No.2018CV421].”

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withdraw his recently filed motion.” To this letter, the City attached the sanctions motion that it had previously filed in response to McCray’s third action,

Case No. 2019CV386, which had been granted by the circuit court in that case.

McCray did not withdraw his motion for rehearing.

On February 22, 2021, the City filed a third letter, which asked the circuit court to deny McCray's motion for rehearing and to award the City sanctions based on McCray's failure to withdraw his motion. The City submitted a proposed order along with its letter. McCray objected. He argued, among other things, that his motion for rehearing was not frivolous, that it was meritorious, and that the City's letters to the court seeking sanctions were not properly served and did not follow the procedure set forth in WIS. STAT. § 802.05(3).

On March 4, 2021, the circuit court issued the order that is the subject of this current appeal. In its order, the court denied McCray's motions for rehearing and awarded fees and costs, including reasonable attorney fees, to the City pursuant to WIS. STAT. § 802.05. The court further enjoined McCray "from filing any further complaint, pleading or motion against anyone that is in any way arising out of and/or related to the events of February 2017 and/or the allegations made in this action."

McCray appeals. The City filed a brief in opposition to McCray's appeal, and has also moved for sanctions for a frivolous appeal pursuant to WIS. STAT. RULE 809.25(3). McCray opposes the City's motion for sanctions.

Discussion

McCray contends that the circuit court erroneously denied his motion for rehearing. In that motion and on appeal, he argues that the circuit court orders dismissing his first and second actions (2017CV689 and 2018CV421) misrepresented the facts and law and are void on that basis, and that our July 26, 2019 order is likewise void because it misrepresents the facts and law. The arguments McCray makes in his motion for rehearing and on appeal are arguments that he previously raised—or could have raised—in his first, second, and third circuit court actions and in his prior appeals.

We need not and do not decide the merits of McCray's legal and factual arguments because they are procedurally barred. To the extent that the earlier circuit courts made legal or factual errors when they dismissed McCray's first and second actions, McCray's remedy was to appeal those orders. McCray did not appeal the dismissal of his first action, and we affirmed the dismissal of his second action on appeal. Thus, the issues that were raised—or that could have been raised—in those proceedings have already been decided, and our July 26, 2019 order represents the law of the case. *Univest Corp. v. General Split Corp.*, 148 Wis. 2d 29, 38, 435 N.W.2d 234 (1989) (stating that the law of the case doctrine is a “longstanding rule that a decision on a legal issue by an appellate court establishes the law of the case, which must be followed in all subsequent proceedings in the [circuit] court or on later appeal”). As the City cautioned in its letter to the court regarding McCray's

motion for rehearing, McCray cannot relitigate the conclusions in our July 26, 2019 order by filing a motion for rehearing in the circuit court. *See generally Univest Corp.*, 148 Wis. 2d at 38; *see also Northern States Power Co. v.*

Bugher, 189 Wis. 2d 541, 549-51, 525 N.W.2d 723 (1995) (discussing the doctrines of claim

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preclusion and issue preclusion, which relate to the common law doctrines of res judicata and collateral estoppel).

McCray also argues that the circuit court erroneously ordered him to pay the City's attorney fees pursuant to WIS. STAT. § 802.05. He asserts that his motion for rehearing was not frivolous, and that, in seeking sanctions, the City failed to follow the procedure set forth in § 802.05(3).

We conclude the circuit court had an ample factual and legal basis for determining that McCray's motion for rehearing was frivolous based on the standard set forth in WIS. STAT. § 802.05(1). As we have explained, McCray's motion is an impermissible attempt to relitigate issues that have already been litigated in a final judgment that has been affirmed by this court.

Even so, we nonetheless conclude that the circuit court erroneously exercised its discretion when it sanctioned McCray under WIS. STAT. § 802.05(3) because the City did not follow the process set forth under that statute for seeking sanctions for a

frivolous filing. Under the process set forth in § 802.05(3), the City was required to serve a safe harbor letter on McCray at least 21 days before filing a motion for sanctions with the court. The City did not follow this process—it instead filed letters with the court, which asserted that McCray’s motion was frivolous and made reference to a prior safe harbor letter that the City had served on McCray in another case, and it then filed a letter and proposed order rather than a motion asking the court to impose sanctions. The City does not provide any legal authority for the alternative process it fashioned, nor does the City argue that any procedural error was harmless.

We therefore affirm the portion of the circuit court’s order that denied McCray’s motion, and we reverse the portion of the order that awarded sanctions to the City under WIS. STAT.

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§ 802.05(3). As a result of our order in this appeal, McCray will not be required to pay the fees and costs that the City incurred in responding to his motion for rehearing in this action, Case No. 2018CV421. We emphasize that our order today in no way affects the sanctions that the circuit court ordered in McCray’s third action, Case No. 2019CV386, or the sanctions that we ordered in our appeal of that action, Appeal No. 2019AP1993.

This matter does not end here, however, because the City has moved for sanctions for this appeal pursuant to WIS. STAT. RULE 809.25(3). The

City argues that the appeal is frivolous, and that some type of sanction is necessary to protect the court system from the continued waste of time and resources caused by the frivolous circuit court proceedings and appeals McCray initiates.

We conclude that the City is not entitled to an award of attorney fees under WIS. STAT. RULE 809.25(3). We agree with the City that the arguments McCray advances about the circuit court's denial of his motion for rehearing are frivolous under the standards set forth in RULE 809.25(3)(c) (allowing an award of costs and fees, including reasonable attorney fees, if we find an appeal to be without any reasonable basis in law or equity and not supported by a good faith argument for an extension, modification, or reversal of existing law). However, as we have explained, McCray's appeal of the circuit court's sanctions award is not frivolous and, therefore, his entire appeal is not frivolous. See *Howell v. Denomie*, 2005 WI 85, ¶19, 282 Wis. 2d 130, 698 N.W.2d 621 (providing that an appeal is not frivolous under RULE 809.25(3)(a) if the entire appeal is not frivolous); see also *Thompson v. Ouellette*, 2023 WI App 7, ¶¶26-45, __ Wis. 2d __, __ N.W.2d __ (discussing a similar standard under WIS. STAT. § 895.044(5)).

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However, we agree with the City that McCray has engaged in a pattern of frivolous and vexatious litigation at significant cost to the court system and, ultimately, to taxpayers. McCray's appeal of the

portion of the circuit court order that denied his motion for rehearing is not only frivolous, but it is also abusive in terms of the language and accusations directed at the court system, attorneys, and parties.

One method of limiting an abusive litigant's access to the courts is to require the litigant to obtain prior approval for any future filings, on a case-by-case basis, so as to prevent additional frivolous filings. See *State v. Casteel*, 2001 WI App 188, ¶¶23-25, 247 Wis. 2d 451, 634 N.W.2d 338, *review denied* (WI Oct. 23, 2001). This method has the virtue of allowing a litigant access to the courts for any meritorious claims that may arise, while still comporting with the general disapproval of blanket orders. *Id.*, ¶¶26-27. We conclude on our own motion that a *Casteel*-type order is warranted here.

Accordingly, because McCray is abusing the appellate process, no further filings will be accepted from him unless he submits by affidavit all of the following: (1) a copy of the circuit court's written decision and order he seeks to appeal; (2) a statement setting forth the specific grounds upon which this court can grant relief; and (3) a statement showing how the issues sought to be raised differ from issues raised and previously adjudicated. Upon review of these documents, we will not accept the filing if we determine that McCray states no claim, defense, or appeal upon which we may grant relief. If we cannot determine from the submitted documents whether the appeal has merit, we may require additional documents or submissions from the parties.

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This order is drafted narrowly to strike a balance between McCray's access to the courts, the taxpayers' right not to have frivolous litigation become an unwarranted drain on their resources, and the public interest in maintaining the integrity of the judicial system. *See Minniecheske v. Griesbach*, 161 Wis. 2d 743, 749, 468 N.W.2d 760 (Ct. App. 1991) (orders limiting access to courts "should be narrowly tailored and rarely issued"). The prefiling review we require is consistent with limits on court access under both Wisconsin law and federal law. *See* WIS. STAT. § 814.29(1)(c) (indigent parties may be denied a waiver of costs "if the court finds that the affidavit states no claim, defense or appeal upon which the court may grant relief"); *In re Davis*, 878 F.2d 211, 212-13 (7th Cir. 1989) (threshold review of the merits is "a sensible and constitutional means of dealing with a litigant intent on pressing frivolous litigation").

Therefore,

IT IS ORDERED that the circuit court order is summarily affirmed in part and reversed in part under WIS. STAT. RULE 809.21(1).

IT IS FURTHER ORDERED that the City's motion for sanctions in the form of costs, fees, and reasonable attorney fees is denied.

IT IS FURTHER ORDERED that, going forward, if the clerk's office receives appellate filings from McCray, the clerk shall not immediately docket the filings and shall instead send the filing to this court for review under *Casteel*, 247 Wis. 2d 451, ¶¶23-25.

MOTION FOR RECONSIDERATION

Appeal No. 2021AP000693

Caption / Cover Page

STATE OF WISCONSIN - COURT OF
APPEALS - DISTRICT IV

Date: March 21, 2023

Appeal No. 2021AP000693

Circuit Court Case No.
2018CV000421

[Court Stamp]: RECEIVED

MAR 21 2023

CLERK OF SUPREME COURT
OF WISCONSIN

RONALD MCCRAY,

Plaintiff-Appellant,

v.

The City of Beloit,
David B. Zibolski, Chief of Police,
Captain Dan Risse, Sergeant Edmund Gates
and Officer Kerry Daugherty,

Defendants-Respondents.

**MOTION FOR RECONSIDERATION OF
COURT OF APPEALS OPINION AND ORDER
2021AP693 RONALD MCCRAY V. THE CITY OF
BELOIT (L.C. # 2018CV421)**

[Court Stamp]: JACKI GACKSTATTER
CLERK OF CIRCUIT COURT

2023 MAR 21 PM 12: 14
ROCK COUNTY WI
FILED

Respectfully Submitted,
Ronald McCray
Plaintiff-Appellant Acting pro-se
2405 Sunshine Lane
Beloit, WI 53511
608-365-434(7) (corrected 12/19/2023: s/Initialed: Pet.
RM)

MOTION FOR RECONSIDERATION

Appeal No. 2021AP000693

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PLEASE TAKE NOTICE that the Plaintiff-Appellant, Ronald McCray, acting pro se, do hereby move this Court pursuant to Wis. Stats. § 809.24 (1) Rule (Reconsideration), to amend and reverse the Wisconsin Court of Appeals Opinion & Order, entered on March 2, 2023, that the circuit court order is summarily affirmed under Wis. Stat. Rule 809.21 for Rock County Circuit Court (RCCC) Case No. 2018CV000421, Appeal No. 2021AP000693.

The grounds for this motion is that Plaintiff-Appellant Ronald McCray asserts herein that the Wis. Court of Appeals District IV Order 2021AP693 is erroneous by not holding the Defendants-Respondents to comply with the same legal standards of Wis. Stat. § 893.80 as required by law, as it held McCray to and therefore discriminates against McCray; rendering this Court Order Facially Unconstitutional because it denies McCray of his "Guaranteed" 14th Amendment Civil Right to Equal

Protection of the Laws, and it is in direct conflict with Federal Law, and in direct conflict with Wis. State Law pursuant to the United States Constitution Amendment 14, Section 1, and Article VI, Section 2, the United States Supreme Court Precedent Ruling of Felder V. Casey 487 U.S. 131 (1988), 42 USC § 1983, Wis. Stat. § 893.80(1g) and (5), and all rules of law as so stated herein.

ARGUMENT

1. Plaintiff-Appellant Ronald McCray is a 66 years and 9.5 months old African American Male natural born citizen of the United States of America, who is early retired and owner of <http://ismsronmccrayfineart.com/> and <http://ismsfineart.com/> at all times relevant hereto.

MOTION FOR RECONSIDERATION

Appeal No. 2021AP000693

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2. The Defendants-Respondents: (1) The City of Beloit is a Wisconsin municipality located at 100 State Street, Beloit WI, and was the employer of; (2) Beloit Police Chief David B. Zibolski, who is being sued in his individual capacity; (3) Captain Dan Risse, who is being sued in his individual capacity; (4) Sergeant Edmund Gates, who is being sued in his individual capacity; and (5) Officer Kerry Daugherty, who is being sued in his individual capacity; at all times relevant hereto.

3. McCray has a right to request a rehearing within one year for reasons of fraud,

misrepresentation, a miscarriage of justice, and when the judgement is void, pursuant to Wis. Stat. § 806.07(1)(b)(c)(d) and (2), and § 808(3), which he timely filed on December 10 2020.

4. THE WISCONSIN COURT OF APPEALS DISTRICT IV, MADE AN ERROR IN ITS ORDER OF 2021AP693 WHEN IT DID NOT ENFORCE THE RULE OF LAW EQUALLY TO ALL PERSONS INVOLVED: Wis. Stat. §

893.80(1g) requires each Defendant-Respondent named in ¶2, without exception, to perform a known mandatory, nondiscretionary, ministerial duty of their office to serve McCray with a notice of disallowance of McCray's claim submitted under sub. (1d) which states:

(1g) Notice of disallowance of the claim submitted under sub. (1d) shall be served on the claimant by registered or certified mail and the receipt therefor, signed by the claimant, or the returned registered letter, shall be proof of service. Failure of the appropriate body to disallow a claim within 120 days after presentation of the written notice of the claim is a disallowance. No action on a claim under this section against any defendant fire company, corporation, subdivision or agency nor against any defendant officer, official, agent or employee, may be brought after 6 months from the date of service of the notice of disallowance, and the notice of disallowance shall contain a statement to that effect.

The Defendants-Respondents named in ¶2 failed to comply with Wis. Stat. 893.80(1g) by refusing to serve McCray with the aforesaid disallowance as

required by law depriving McCray of his 14th Amendment Civil Right to his Liberty Interest of fair and just treatment under the law without due process of law. The Wisconsin Court of Appeals District IV erroneously did not enforce this required "Rule of Law and Law of

MOTION FOR RECONSIDERATION

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this Case", § 893.80(1g) on the Defendants-Respondents as it did § 893.80(1d)(a) on McCray. This constitutes fraud, misrepresentation, and a miscarriage of justice and establishes grounds for a rehearing.

5. Wis. Stat. § 893.80 has 2 Statute of Limitations: Wis. § 893.80 has two statute of limitations periods, one for those who are served with a notice of disallowance, and one for those who are not, pursuant to the Court of Appeals of Wisconsin ruling of Griffin v. Milwaukee Transport Services, Inc., 246 Wis. 2d 433 (2001), 2001 WI App 125, 630 N.W. 2d 536 (¶ 10). Therefore, the Rule of Law for this case goes to Wis. Stats. § 893.53 and § 893.57, which have 6 year and 3 year statute of limitations.

6. THE WISCONSIN COURT OF APPEALS BASED AND ENFORCED ITS OPINION AND ORDER 2021AP693 ON A FALSE STATEMENT: The Court of Appeals Order 2021AP693, is based on McCray's failure to timely comply with Wis. Stat. § 893.80 (1d)(a). This is categorically false. McCray is being called a liar in all matters pertaining hereto. McCray takes exceptional issue with anyone calling

him a liar, when he, as a matter of fact, is the only person telling the truth. McCray timely complied with Wis. Stat. § 893.80 and served each of the Defendants-Respondents named in ¶2 with a Notice and Claim pursuant to Wis. Stat. § 893.80. It is not difficult to show irrefutable proof of who is lying and who is telling the truth in these matters. Therefore, McCray is requesting the Court of Appeals Dist. IV to “**Order**” McCray to file a motion in the Court of Appeals for this case and in the RCCC Case No. 18CV421 and attach his Affidavit/ Certificate of Service for each Defendant-Respondent, and “**Order**” the Defendants-Respondents named in ¶2 to file the same aforesaid motion and attach each registered or certified mail receipt or returned registered letter, Notice of Disallowance served on McCray as required by the law of this case, prior to the Court of Appeals disposing of this Motion for Reconsideration.

7. THE WISCONSIN COURT OF APPEALS DISTRICT IV, MADE AN ERROR IN ITS ORDER OF 2021AP693 WHEN IT DID NOT ENFORCED NO RELITIGATING MATTERS THAT HAVE ALREADY BEEN ADJUDICATED ON THE DEFENDANTS-RESPONDENTS: If RCCC Case No. 17CV689 is the law of this case, then what Judge Dillon

MOTION FOR RECONSIDERATION

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ruled at the Motion Hearing of October 24, 2017, cannot be relitigated. The Defendants-Respondents did not file an appeal of this ruling. The Wisconsin Court of Appeals District IV, unfairly allowed the

Defendants-Respondents named in ¶2, and their attorneys, Kyle Engelke and other attorneys who are not identified in court record, to relitigate Judge Dillion's ruling stating everything relates back to the February 23, 2017 incident and therefore barred by Wis. Stat. § 893.80. **THERE IS NO SUCH RULE OF LAW.** Each unlawful act or inaction that is a cause of action has its own 120 day statute of limitations. There were multiple acts and inactions occurring throughout June of 2017 that were unlawfully barred and ignored. Judge Dillon ruled they were actionable. The Court of Appeals incorrectly states in its opinion on pg. 3, ¶2:

“The court determined that any claim arising more than 120 days before McCray served his notice of claim on the City (that is, any claim arising before May 31, 2017) was “untimely pursuant to WIS. STAT. § 893.80. ”The court further determined that the claims in McCray's complaint were untimely because they arose before that date.”

That is incorrect. The court determined that there were claims after May 31, 2017, and the City of Beloit had to consider McCray's Notice and Claim pursuant to Wis. Stat. § 893.80, and that the Doctrine of Continuing Violations applied if there were (See: the Exhibit list of RCCCC No. 18CV421 for some of the unlawful acts; and Civil Complaint No. 18CV421; Pgs. 7-10, ¶27-¶36 for other causes of action).

8. THE COURT OF APPEALS DISTRICT IV, IS IN ERROR IN ITS ORDER OF 2021AP693 WHEN IT ENFORCED CLAIM PRECLUSION AND ISSUE PRECLUSION BY ENFORCING AN UNPUBLISHED OPINION AND ORDER THAT

IS IN DIRECT CONFLICT WITH THE UNITED STATES CONSTITUTION AND THE WISCONSIN SUPREME COURT:

Summary disposition orders and unpublished opinions and orders cannot be cited as precedent or authority for any purpose in the state of Wisconsin unless they are **“OFFICIALLY PUBLISHED”**, repeat precedent rules of law and repeat established rules of law, pursuant to Wis. Stat. § 752.41(2). This Opinion and Order is not, and does not. Unpublished opinions can only be cited to **“SUPPORT”** a claim of claim preclusion, issue preclusion, or the law of the case pursuant to Rule: Wis. Stat. § ~~809(3)(a)~~ 809.23(3)(a) (corrected 12/19/2023 s/Initialed: Pet.RM).

MOTION FOR RECONSIDERATION

Appeal No. 2021AP000693

Page 5 of 5

9. THE WISCONSIN SUPREME COURT RULE IS CITING UNPUBLISHED OPINIONS IN APPELLATE PROCEDURE IS NOT TOLERATED; (See: Tamminen v Aetna Casualty & Surety Co. 109 Wis.2d 536, 327 N.W.2d 55 (1982); 563-564, ¶3 [7] and [8]). The Court of Appeals of Wisconsin does not tolerate the citing of its own unpublished opinion or even the naked citation to it; (See: Kuhn v. Allstate Insurance Co. 181 Wis.2d 453, 510 N.W.2d 826 (1993); 467 ¶3-468).

10. THE WISCONSIN COURT OF APPEALS DISTRICT IV, IGNORDED THE U.S. SUPREME COURT PRECEDENT RULING OF FELDER V. CASEY 487 U.S. 131 (1988) WHEN CITING CASES IN ITS OPINION AND ORDER 2021AP693: Wisconsin Court of Appeals, District 4

Opinion and Order 2018AP1648 is in direct conflict with Federal Law, the United States Supreme Court Precedent Ruling of *Felder v. Casey* 487 U.S. 131 (1988). Federal Actions **cannot be defeated by a state statute of limitations** (See *Felder v. Casey*, 487 U.S. 131 (1988); at Pg. 487 U.S. 138, ¶2; pg. 487 U.S. 139, ¶4; and pg. 487 U.S. 140, ¶1-¶2.)

11. 42 U.S.C. § 1983 – “Elder Abuse” Violation of Wis. Stat. § 46.90 (1)(a)(br)(cm)(ed)(1) and (2); and

§ 943.20(1)(a)(2)(ad)(ag)(b)(d) and (3) (a): The Defendants-Respondents named in ¶2 are engaged in Elder Abuse by forcing McCray, an Elder, to act against his will and unlawfully taking money from McCray on or about November 11, 2021, under fraudulent pretenses via the Rock County Circuit Court, depriving McCray of his 14th Amendment property interest Civil Right of \$778.50, without due process of law.

Conclusion

Wherefore, McCray respectfully request the Court of Appeals to reconsider, amend and reverse its Order affirming the Circuit Court’s Order and enter the correct judgement for this case, according to McCray’s Reply Brief page 13. ¶18, and issue orders as requested in ¶6 herein. There has been a miscarriage of justice.

Respectfully Submitted:

Dated: March 21, 2023

s/Ronald McCray
Ronald McCray,
acting pro se

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

DISTRICT IV

[Stamped]: Received

Mar 22, 2023

By: s/ Ronald McCray

March 22, 2023

To:

Hon. Jeffrey Kuglitsch
Circuit Court Judge
Electronic Notice

Kyle W. Engelke
Electronic Notice

Jacki Gackstatter
Clerk of Circuit Court
Rock County Courthouse
Electronic Notice

Ronald McCray
2405 Sunshine Ln.
Beloit, WI 53511

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

2021AP693 Ronald McCray v. The City of Beloit

(L.C.# 2018CV421)

Before Fitzpatrick, Graham, and Nashold, JJ.

APP-27

The appellant moves for reconsideration of this court's summary disposition entered March, 2, 2023. The motion does not cause us to amend the order.

IT IS ORDERED that the motion for reconsideration is denied.

Sheila T. Reiff
Clerk of Court of Appeals

TRANSCRIPT; Case No. 2017CV689

Page 1

2 STATE OF WISCONSIN CIRCUIT COURT
 ROCK COUNTY

3 * * * * *

4 RONALD MCCRAY,
5 Plaintiff,
6 vs. Case No. 2017CV689
7 THE CITY OF BELOIT,
8 Defendant.

9 * * * * *

13 PROCEEDINGS: Motion Hearing

14 DATE: October 24, 2017

15

16 COURT: The Honorable Daniel T.
 Dillon
17 Circuit Court Judge,
 Presiding

18

19 APPEARANCES: Ronald McCray, appearing
 pro se;
20 Kyle Engelke, Attorney at
 Law,
21 Appearing on behalf of the
 defendant.

22

23
24
25

REPORTER: Linda M. Blum

TRANSCRIPT; Case No. 2017CV689

Page 16

1 THE COURT: And what you have
to complain about
2 has to have occurred no more than 120 days
sooner than
3 September 28th?
4 MR. McCRAY: That's correct.
5 THE COURT: Or earlier rather
than sooner. So
6 if we to 120 days back from September 28th,
where do you
7 get to? Well, we know we have 31 days in
August. We
8 know we have 28 days in September, we know
we have
9 31 days in July, and we know we have 30 days
in June.
10 That gets you to 120 days. You don't count the
first day
11 but you count the last day.
12 So it looks like, based on the notice you
tell
13 me you gave, and using your facts on giving the
notice,

14 your cause of action has to have accrued
sometime --

15 MR. ENGELKE: I have May 31st,

16 THE COURT: On May 31st, or later
than

17 May 31st.

18 MR. McCRAY: Also, your Honor,
can I add--

19 THE COURT: No. You may not.
I'm trying to

20 focus on these dates. I'm not making a
determination if

21 your claim is valid or invalid, I'm making a

22 determination today of whether you're out of
court

23 because the deadline expired. No matter how
good your

24 case is, if you miss the deadline, you don't have
a right

25 to bring the claim. That's a statutory
prohibition,

TRANSCRIPT; Case No. 2017CV689

Page 17

1 statutory creation that the legislature has
designed

2 specifically to put municipalities on an
accelerated

3 path.

4 It's a greater protection for
municipalities

5 than an individual would have by design. So
any claim

6 that you have that you have included in your
notice that

7 arose that looks like you agree that the date is
the 31st

8 of May for you 120 days.

9 Mr. McCRAY: And I did not receive
the

10 procedural –

11 THE COURT: No, no. Answer my
question.

12 Your're relying on a very strict 120-day period.
You know

13 that's what we're all talking about. Based on
what

14 you've told me, the date your notice was served,
wouldn't

15 120 days go back to the 31st of May?

16 MR. McCRAY: Yes.

17 THE COURT: Okay. So now I
assume that fact

18 is proven and true. Are you in a position to
respond to

19 this, counsel?

20 MR. ENGELKE: In the sense of – I
don't

21 contend that he did serve the notice of –

22 THE COURT: Well, what Mr.
McCray is saying is

23 go ahead and dismiss Case No. 17CV689. He's
got the,

24 he's timely on his new notice, and he is simply
going to,

25 when this case is dismissed, he's going to start
another

TRANSCRIPT; Case No. 2017CV689

Page 18

1 one. Because the municipality, you're going to
have to

2 consider the claim, the municipality is going to
have to

3 decide whether to grant it, deny it, talk to Mr.
McCray

4 about work something out or deny it, or if it is
denied,

5 then he starts his lawsuit. How much time
does he have

6 to start his lawsuit after that?

7 MR. ENGELKE: The city has 120
days to respond

8 to him in order to send a notice of disallowance,
and if

9 they send a notice of disallowance, that
 shortens the
10 statute of limitations to six months.

11 THE COURT: Do you understand
 that?

12 MR. McCRAY: Yes, I do.

13 THE COURT: City has 120 days to
 disallow your
14 claim.

15 MR. McCRAY: Right.

16 THE COURT: I'm not making a
 finding as to
17 when your claim was served. I'm accepting for
 purposes
18 of this conversation what you told me is
 precisely
19 correct. I'm, I believe you. I'm not saying it's
 not
20 true, but there still could be errors in
 calculation; do
21 you follow what I'm saying that –

22 MR. McCRAY: I understand.

23 THE COURT: What you've told me
 is that you
24 had it served, you gave the notice, and that
 your clock
25 running backwards, your 120-day clock
 running backwards

TRANSCRIPT; Case No. 2017CV689

Page 19

1 starts on September 28th. If that's true, it ends
or
2 begins, depending on how you, because we're
going back to
3 the future, if you will, it ends on May 31st. So
4 anything that's happened since on May 31st or
since
5 May 31st, you've got a cause of action for.
That's your
6 position.
7 Now, it could be because you brought a
claim
8 for defamation, one of your claims is for
defamation, you
9 have a lot, a lot of claims mixed up into this, it
could
10 be that one of, one or more of your claims are
now
11 eclipsed by virtue of the fact that they're
outside of
12 that 120-day period, but maybe you've got
something else
13 that's come in since because there's a
continuing
14 grievance that you seem to be asserting here. I
don't
15 know.

16 MR. McCRAY: There is continuing
violations.

17 THE COURT: That's what I think
you're saying.

18 MR. ENGELKE: May I be heard real
briefly, Your
19 Honor?

20 THE COURT: I'm inclined to grant
the motion

21 to dismiss and then Mr. McCray is in the game
to begin

22 with on his new approach. And what happens
happens at

23 that point, Mr. McCray --

24 MR. McCRAY: I understand.

25 MR. ENGELKE: Frankly that's what
I was going

TRANSCRIPT; Case No. 2017CV689

Page 24

1 They'll be scanned in and efiled. And I'm going
to grant

2 this motion to dismiss without costs, counsel.

3 MR. ENGELKE: Thank you, Your
Honor.

4 MR. McCRAY: Yes. Thank you,
Your Honor.

5 MR. ENGELKE: Would you like me to
prepare an
6 order?

7 THE COURT: Yes. It's without
costs, without
8 prejudice.

9 MR. ENGELKE: I'm sorry. You said
without
10 costs or did you say something different?

11 THE COURT: I said without costs
and without
12 prejudice. Okay. Got it, Mr. McCray?

13 MR. McCRAY: No. There's a lot
missing from
14 this.

15 THE COURT: I'm talking about
yours. You
16 brought one in that you want to file today. You
ought to
17 know how many you have.

18 MR. McCRAY: That's what I'm
doing.

19 THE COURT: Get it to the Clerk of
Courts.

20 We're going to staple it and have you state on
the record

21 how many pages there are and then I will
adjourn.

22 MR. McCRAY: That's what I'm
doing.

23 THE COURT: Let's go. Numbering
those one

24 through 20 or 30 right down the road.

25 MR. McCRAY: I'm going right down
the row.

ORDER FOR DISMISSAL: Case No. 17-CV-689

Page 1

**FILED
11-01-2017
Clerk of Circuit Court
Rock County, Wisconsin**

STATE OF WISCONSIN CIRCUIT COURT ROCK
C(illegible) BRANCH 4

RONALD McCRAY,

Plaintiff,

v.

Case No. 17-CV-689
Case Code No. 30106

THE CITY OF BELOIT,

Defendants.

(Stamped): Received
May 31, 2018

By: s/ Ronald McCray

ORDER FOR DISMISSAL

This matter came on for a Motion Hearing on October 24, 2017 at 9:30 a.m., the Honorable Daniel T. Dillon presiding. Defendant City of Beloit by its attorneys, Stafford Rosenbaum, LLP, previously filed an Amended Notice and Motion to Dismiss on the basis that the plaintiff failed to comply with the notice requirements of Wis. Stat. § 893.80. Based on the parties' submissions, including the plaintiff's Withdrawal of Opposition to the Defendant's Motion to Dismiss, and the testimony and arguments received

by the Court on October 24, 2017, the Court rendered a ruling granting the motion and dismissing complaint for plaintiff's failure to comply with Wis. Stat § 893.80 and finding claims arising before May 31, 2017 are untimely pursuant to Wis. Stat. § 893.80.

Therefore, IT IS ORDERED that this action is dismissed without prejudice and without costs to any party. This is a final order for purposes of appeal.

s/Electronically signed by Daniel T. Dillon

Circuit Court Judge

11/01/2017

(Sticker): **EXHIBIT**

#1 (attached to Defendants' "Notice of Motion to Dismiss Rock County Circuit Court Case No. 18-CV-421)

18
19

20
21
22
23
24 Mical Barkley, RPR, CRR
25 Circuit Court Reporter

TRANSCRIPT: Case No. 18-CV-421

Page 2

1 TRANSCRIPT OF PROCEEDINGS
2 THE COURT: Next case this morning is
3 2018-CV-421, Ronald McCray versus City of
 Beloit, et al.
4 And appearance, please. Your're Mr. McCray?
5 MR. MCCRAY: Yes, acting pro se.
6 THE COURT: Very good.
7 MR. ENGELKE: Good morning, Your
 Honor. My name
8 is Kyle Engelke appearing on behalf of the
 defendants.
9 THE COURT: Okay. And Mr.
 Engelke, it's your
10 motion to dismiss. And I'll indicate that I've
 read
11 through the complaint and read through the
 motion and
12 I've read through the response. But what
 argument do

13 you want to make, sir?

14 MR. ENGELKE: No, I'd like to start
by just

15 emphasizing we have a very long complaint,
and we have

16 been here before with Mr. McCray in front of a
judge on

17 a motion to dismiss. And it was in regards to
some

18 procedural issues regarding 893.80 that was
granted last

19 fall by Judge Dillon, and I think, as was
attached to

20 the motion, I want to emphasize the court
rendered a

21 ruling dismissing the complaint and finding
that the

22 plaintiff's failure to comply with 893.80 for
claims

23 arising before May 31st, 2017. So I think that's
a fact

24 that's established by that prior decision.

25 So since then, Mr. McCray has filed
additional

TRANSCRIPT: Case No. 18-CV-421

Page 3

1 notices of claim, and I think they all trace back
to one

2 incident back in February of 2017. And what
I'd like to
3 do is mark for the record the exhibit that Mr.
McCray
4 offered to Judge Dillon back in October just so
you can
5 have it in front of you what we've been talking
about.

6 You didn't want a copy?

7 MR. MCCRAY: I have copies.

8 THE COURT: Mr. McCray, you
understand what he's
9 asking to be marked?

10 MR. MCCRAY: I understand what
he's asking to be
11 marked, but he's omitting a lot of information.

12 THE COURT: You'll get your
chance to have your
13 say.

14 MR. MCCRAY: I understand.

15 MR. ENGELKE: So may I approach?

16 THE COURT: You may.

17 MR. ENGELKE: So, Your Honor,
what's been marked
18 as Exhibit 1 both in this case and also the prior
case
19 in front of Judge Dillon is something that Mr.
McCray

20 submitted as his rep -- he says that this is a
21 procedural complaint report. I don't really
need to
22 characterize it other than to draw the court's
23 attention, I believe it is, the fifth page. And
when I
24 say the fifth page, I realize it's copied on both
sides.
25 So the fifth page that starts with Incident
Report

TRANSCRIPT: Case No. 18-CV-421

Page 4

1 Supplement. And at the top right, it is March
3rd. Do
2 you have that?
3 THE COURT: Okay. Just a second. All
right.
4 It's the page that says Supplement, and it says
No. 9 at
5 the bottom of the page there?
6 MR. ENGELKE: Yes, Your Honor.
7 THE COURT: Okay.
8 MR. ENGELKE: And so there's much
dispute on
9 what exactly to call this document. All I'll say
is

10 that this is what led to this lawsuit. And so I
 don't

11 want to get into the facts because they're very
 heavily

12 disputed apparently, but I would just point out
 to the

13 fact that the disposition that this was that
 retrieved

14 the item, which was the list of patients from
 this

15 dental office, that apparently reported that he

16 -- Mr. McCray was contacting folks and there
 was no

17 action taken by the police officers. So that's
 how the

18 contact ended back in February of 2017. Why
 that didn't

19 constitute the end of it is not clear to me, even
 here

20 today. But the basis of the motion by the
 defendants is

21 that there's not a claim here for defamation.
 And they

22 have -- there's a failure to comply with 893.80
 because,

23 As you will see in the top right corner, that
 document,

24 March 3rd, 2017, that was received and
 comparing that to

25 the order from Judge Dillon, which said action
arising

TRANSCRIPT: Case No. 18-CV-421

Page 5

1 before May 31, 2017 are too late.

2 THE COURT: Okay.

3 Mr. Engelke: And so I'm guessing
there will be

4 some back and forth here today, but frankly,
you know,

5 how this document that I'm -- page -- the fifth
page,

6 the March 3rd, 2017 received document that I
was

7 referencing constitutes defamatory statements
from any

8 of the defendants, you know, is certainly a basis
of the

9 motion to dismiss this complaint because it's
just not

10 capable of defaming. So that's where I'll start
and,

11 you know, happy to respond what -- whatever
questions

12 you may have or issues are raised.

13 THE COURT: All right.
Well, and I was familiar

14 with Judge Dillon because it's been referenced
in some
15 other documents here, too. Between you and
Mr. McCray
16 presented, were there – and what I understood
the
17 previous case – that's what, the case number
17-CV-689,
18 that Mr. McCray then did follow up in
September of that
19 year with a new notice of claim?

20 MR. ENGELKE: That's correct,
Your Honor.

21 THE COURT: And did the
City respond back or
22 deny that claim or take no action?

23 MR. ENGELKE: I believe the
City took no action,
24 so the period expired.

25 THE COURT: The 120 days,
I understand that.

TRANSCRIPT: Case No. 18-CV-421

Page 6

1 Okay. Mr. McCray, what do you want to tell
me, sir?

2 MR. MCCRAY: Your Honor,
that statute of

3 limitations that the defendant's attorney is
referring

4 to, this police department, they concealed
evidence.

5 THE COURT: What did they
conceal, sir?

6 MR. McCRAY: They
concealed that Officer

7 Daugherty filed his report defaming my
character as a

8 copy of CAD notes. He did not disclose that he
filed

9 his report as a copy of the CAD notes. He
altered the

10 CAD notes in his report and he changed it to --

11 THE COURT: How were you
defamed, sir?

12 MR. MCCRAY: I'm defamed
because he is stating

13 that I was making harassing phone calls to
patients, and

14 that is not what I was doing.

15 THE COURT: He was
stating that or the complaint

16 that was filed was stating that?

17 MR. MCCRAY: He was
stating it. That was his

18 -- that was his -- the complaint -- his report is

19 actually a copy of this -- this complaint. And he
was
20 called in to investigate it, and he did not state
the
21 truth.
22 THE COURT: And no
charges were brought against
23 you, sir, correct?
24 MR. MCCRAY: No charges
were brought against me,
25 no, but they --

TRANSCRIPT: Case No. 18-CV-421

Page 7

1 THE COURT: So how are
you defamed?
2 MR. MCCRAY: They were
continuing -- the police
3 chief wrote a defamatory letter of response. He
accused
4 me of lying. He accused me of withholding --
5 THE COURT: All right.
We'll let you get into
6 more in a little second, okay? But the first
issue that
7 was raised by Mr. Engelke here was the 893.80.
And

8 basically the entire substance of your complain
 stems

9 back to the February incident here that's
 referenced on

10 page 5 of this document, basically the initial --
 the

11 initial action back when the -- you found the
 paper

12 -- whatever that paperwork was, and then that
 got

13 reported to the police and they investigated
 back in

14 February and this document is dated March
 3rd, which is

15 clearly before the May 31st deadline that Judge
 Dillon

16 had indicated regarding 893.80. How do you
 deal with

17 that, sir, when basically all the items that
 you're

18 alleging stem from this February incident?

19 MR. MCCRAY: Because a cause
 of action accrues

20 when there exists a claim capable of
 enforcement. The

21 police chief told me I didn't have a claim. I
 filed a

22 complaint with the district attorney. They told
 me I

23 did not – there was no police misconduct. He
even said
24 it. I discovered these CAD notes – Officer
Daugherty
25 did not state it was unlawful for him to file this

TRANSCRIPT: Case No. 18-CV-421

Page 8

1 report as CAD notes because these CAD notes -
2 THE COURT: How is it
unlawful for him to file a
3 report?

4 MR. MCCRAY: Because
without – without stating
5 the truth because these CAD notes contains a
false
6 statement in them.

7 THE COURT: All right.

8 MR. MCCRAY: And so that's
a false statement

9 defaming my character. I was not calling,
harassing

10 anyone. That's what these CAD notes state,
and Officer

11 Daugherty's report –

12 THE COURT: Well, isn't the
fact they didn't

- 13 charge you anything proof that you didn't
harass
- 14 anybody?
- 15 MR. MCCRAY: No, because
they filed their
- 16 reports stating that these CAD notes that I was
actually
- 17 doing that. That's what they filed their report
as.
- 18 Officer Daugherty filed his report as these Cad
notes
- 19 without disclosing that he changed the CAD
notes. He
- 20 changed the actual facts, and I think if you
want me to
- 21 go through and show you what he changed, I
can do that
- 22 also.
- 23 THE COURT: Well, let's get
back to my question
- 24 though. My question was, isn't this action all
stem out
- 25 from the February incident? That's your date
that

TRANSCRIPT: Case No. 18-CV-421

Page 9

- 1 things happened. And that's the argument
that says

2 you're not timely in the sense that, you know,
3 this was
4 an incident that occurred before May 31st and
5 -- when
6 were the CAD notes reported?

7 MR. MCCRAY: I found -- I got
8 these --- they
9 didn't tell me.

10 THE COURT: I'm not asking
11 you -- okay. When
12 did you find them?

13 MR. MCCRAY: I found the
14 CAD notes on June 9th.
15 That's when I discovered the CAD notes. And
16 how I
17 discovered them is that I requested -- actually, I
18 first
19 -- on May 30th, I requested a copy of all the
20 reports
21 and investigations from the Beloit Police
22 Department.

23 THE COURT: Okay.

24 MR. MCCRAY: Jillian
25 Peterson, the director of
26 support services, and the chief of police stated
27 that
28 were no investigations. They stated that there
29 were no

18 documents other than the two reports that I
received.
19 And then I did some investigating myself, and I
asked
20 for a copy of the 911 call that was called in.
21 THE COURT: All right. So
you asked for 911
22 notes from the County.
23 MR. MCCRAY: From the
Rock County Communication
24 Center, yes.
25 THE COURT: That's not the
City of Beloit,

TRANSCRIPT: Case No. 18-CV-421

Page10

1 though.
2 MR. MCCRAY: That's not the
City of Beloit, but
3 that's what this officer filed his report as. This
4 report is from the Rock County communication
Center.
5 THE COURT: Okay.
6 MR. MCCRAY: So he filed the
City of Beloit
7 police report as a copy of this report. And -

8 THE COURT: Well, let's see
 - what report are
 9 you referring to, sir? I'm not sure.

10 MR. MCCRAY: I'm reporting
 to -I'm
 11 reporting -

12 THE COURT: Can I see it?
 13 MR. MCCRAY: See, that's
 what Mr. Engelke didn't
 14 give you. This is -

15 THE COURT: Can I see the
 document?

16 MR. MCCRAY: Yes.

17 THE COURT: Give it to my
 bailiff here. We'll
 18 mark it.

19 MR. MCCRAY: This is what
 his -

20 THE COURT: Hang on.

21 MR. MCCRAY; Yes, okay.

22 MR. ENGELKE: Do you have
 an extra copy.
 23 Mr. McCray?

24 MR. MCCRAY: No, I don't. I
 gave you a copy
 25 back in October.

TRANSCRIPT: Case No. 18-CV-421

Page 25

1 MR. MCCRAY: The
PremierOne report –
2 they withheld that – was discovered on June
9th.
3 THE COURT: it's not their
record. It's a CAD
4 report from the County.
5 MR. MCCRAY: But he filed
his report of this CAD
6 record, a copy of it. And he did not disclose
that in
7 his report. He filed his report as a copy of
these CAD
8 notes. If you look at this procedural complaint
report
9 that Mr. Engelke gave you, if you look page 1,
2, 3, 4
10 -- if you look page 6, that last page of this
report.
11 THE COURT: This is Exhibit
1 we're talking?
12 MR. MCCRAY: Yes. Exhibit
1.
13 THE COURT: The last page
of Exhibit 1?
14 MR. MCCRAY; That's correct.

15 MR. ENGELKE: Well, that's
going to be a little
16 bit different – sorry to interrupt, Mr. McCray –
17 because I had front and side – front and back.
So
18 Exhibit 1, yeah, it's going to be the same. I
think
19 it's going to be the one that is – it's the fourth
20 page, Your Honor. It's titled 4/12/17 at the
very top
21 left. You agree with that, Mr. McCray?
22 MR. MCCRAY: Yes.
23 THE COURT: Okay.
24 MR. MCCRAY: If you look
where it says
25 Information disseminated.

TRANSCRIPT: Case No. 18-CV-421

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1 in. It's no different than before.
2 MR. MCCRAY: Unknown how
he got the paperwork.
3 Then it gives an incident date.
4 THE COURT: Mm-hmm.
5 MR. MCCRAY: 2/23/17.
6 THE COURT: Right.

7 MR. MCCRAY: And then it
8 goes on to repeat this
9 statement a second time.
10 THE COURT: Mm-hmm.
11 MR. MCCRAY: Without this
12 incident date.
13 THE COURT: Okay.
14 MR. MCCRAY: And then
15 unknown how he got the
16 paperwork. If he had all of the information
17 regarding
18 this incident before he wrote this report, I
19 don't
20 understand why he is entering this false – this
21 false
22 statement in his report.
23 THE COURT: And what's
24 the false statement, that
25 you're harassing?
26 MR. MCCRAY: That I was
27 harassing,, calling
28 patients.
29 THE COURT: And again,
30 that was called in by the
31 dentist's office sir. That's not his statement.
32 That's the assignment he got.
33 MR. MCCRAY: Okay.
34 THE COURT: All right.

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1 MR. MCCRAY: He got that
assignment, but that
2 only appears once in this PremiereOne report.
He has
3 put it in there twice. So he's framing me. He's
4 putting this in to make it sound like this
statement is
5 true. Because –
6 THE COURT: I don't see
that, sir. I don't see that at all.
8 MR. MCCRAY: First he put it
in with the
9 incident date and time. Then he put it in
without an
10 incident date and time and then called suspect.
What am
11 I a suspect of if he had all this information?
12 THE COURT: I think we've
already established
13 that, sir. When the dentist office called, they
15 complained about you.
16 MR. MCCRAY: I understand
that.
17 THE COURT: All right. So
at that point, you

18 were a suspect. All right? I understand why it
 was put
19 in the CAD notes that way. I don't believe the
 officer
20 did that. I believe that's the way the CAD
 system
21 operates. And it's an unfortunate choice of
 words. I'm
22 sorry for that. But ultimately you were cleared
 of any
23 wrongdoing. They didn't file any charges
 against you.
24 MR. MCCRAY: That doesn't
 mean that I was
25 cleared of any wrongdoing.

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1 Department report. This -- this -- they stated --
2 THE COURT: All right.
3 MR. MCCRAY: -- that the 911
 dispatcher put this
4 statement in their report.
5 THE COURT: All right.
 Let's get back to again
6 the 893.80, we keep getting off track there. I'm
 sorry

7 for that, Mr. Engelke. As far as the 893.80,
again,
8 we're still looking at documents that are before
the May
9 31st deadline when you filed your notice of
claim in
10 September
11 MR. MCCRAY: Okay. Can
you give me a second to
12 find--
13 THE COURT: Absolutely.
Take all the time you
14 need , sir.
15 MR. MCCRAY: my copy of
this. I
16 -- with my dispute in opposition to defendant's
motion
17 to dismiss, I filed a copy.
18 THE COURT: Okay. This is
your response -- hang
19 on a second. Let's see here. So this is your
20 opposition to the motion to dismiss disputed
statements
21 filed on 6/7 of this year.
22 MR. MCCRAY: And with that
dispute, I filed a
23 copy of my genuine dispute of statement and
false

- 24 statements and tampered with evidence, and
defendant
- 25 City of Beloit's amended notice and motion to
dismiss

TRANSCRIPT: Case No. 18-CV-421

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- 1 original - - or the document received May 3rd,
2017 that
- 2 is the genesis of all this. I don't understand
about,
- 3 you know, somebody supplied one report or
another
- 4 report. The point is he knew on March 3rd of
2017 that
- 5 He was upset about this - - this issue and
report.
- 6 THE COURT: Anything else
there, Mr. McCray?
- 7 MR. MCCRAY: Yeah, I did not
know - -
- 8 THE COURT: First of all, let
me rule. First of
- 9 all, I am not going to admit the document - - or
the
- 10 recording at this point. I've got no way to hear
it,
- 11 and it's really not fair to do it. It's alleged for

12 statements for a party that's not here, and I do
believe

13 that is hearsay at this point. And as such, I'll
take

14 Mr. McCray's word for what he says it says. All
right?

15 MR. MCCRAY: Yes.

16 THE COURT: Okay.
Anything else you want to

17 tell me, Mr. McCray?

18 MR. MCCRAY: I think that's
about it outside of

19 the inconsistencies in this procedural complaint
report.

20 THE COURT: All right.
Anything else,

21 Mr. Engelke?

22 MR. ENGELKE: The only - - I
think I made clear

23 my record on what I'm requesting today for
factual

24 findings, but I think we should, depending on
the

28 court's ruling, make a record that there was
nine

TRANSCRIPT: Case No. 18-CV-421

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1 counts, and I want to make sure - - I believe all
of
2 these relate to defamation, but I want to make
a clear
3 record.
4 THE COURT: All right.
Very good. All right.
8 Well, I'm being asked to decide whether of not
to
9 dismiss this complaint. And again, I
understand that
10 Mr. McCray is acting pro se, and I will note I
think
11 he's doing a very good job at it.
12 As far as the request for a motion to dismiss,
13 basically then I've got to look at that in the
light
14 most favorable to the nonmoving party, and
that would be
15 Mr. McCray. So if there's any basis at all from
16 Mr. McCray's complaint to go forward, I
basically need
17 to rule in his favor at this early stage of the
18 proceeding. I'm being asked by the defendants
here to

19 throw this matter out based on 893.80. And
part of this
20 has already been litigated before by Judge
Dillon in
21 previous case 17-CV-689. And Judge Dillon
made a ruling
22 that does stand up that anything prior to May
31st is
23 pretty much not timely. And as I take a look at
this
24 situation here, pretty much everything relates
back to
25 an incident that occurred on 2/23/17 at
approximately

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1 that way. And that's what's indicated on that
March 3rd
2 document that you're concerned about. So it's
not the
3 officer that's making the statement of
harassment. So
4 as such, I don't think there's a false statement.
It's
5 in a document. It's not unprivileged. And it's
6 certainly not meant to harm reputation. It was
just –

7 I understand you don't like being called a
suspect and I
8 understand that and maybe it's a poor choice of
words,
9 but at that point when they're investigating,
they have
10 a name and at that point they called you a
suspect.
11 unfortunately. But ultimately, as - - as you
complained,
12 they did a supplemental report and ultimately
found that
13 no crime had been committed. You had never
been
14 charged. You know, I don't know how readily
available
15 the CAD notes are. Certainly they could be a
public
16 record and somebody could make that, but
normally most
17 people go after complaints and things out of the
DA's
18 office and very seldom would you get CAD note
requests.
19 But it's possible. But again, ultimately, if you
got
20 the review of the paperwork, etcetera,
ultimately it was
21 - - the investigation found there was no crime
committed

22 nor was there any violation of local ordinance.
23 So I don't believe you proved your case for
24 defamation. I don't think you can prove your
case for
25 defamation, as such

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1 MR. MCCRAY: May I make
statement?
2 THE COURT: It's my turn to
talk, sir. You've
3 had your chance.
4 So as it relates to the 893.80 claim, as I said,
I
5 believe everything does tend to go back to the
initial
6 incident back in February, which is barred by
the
7 statute of limitations at this point. In addition,
your
8 concern about the public records request, I
asked you,
9 too, if you felt that the - - if you filed a writ of
10 mandamus, which the City properly informed
you pursuant
11 to statute that you had a right if you didn't feel
you

12 were getting the right answers to file, and you
13 indicated you didn't do that. So as far as that
goes, I

14 don't see a violation there either.

15 Again, the other documents you provided
here between

16 Exhibits 2 - - you tried to make a big thing out
of the

17 CAD notes and that it went on for two hours. I
believe

18 it probably did go on for two hours. The note
that's

19 referenced in the police report is the time the
call

20 came in. And that's the time it was reported.
And then

21 you try to make an issue that they doctored the
report.

22 Well, it was supplemental report, and as such, a
23 supplemental report is not the same report as
the

24 initial report. So they're going to be different.
And

25 I believe that the City has at least made efforts
to try

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1 to accommodate you.

2 Sir, I believe you felt you were wronged and I

3 understand your concerns, but I don't believe,

looking

4 at the evidence here, that the City or its

officers have

5 done anything that's defaming to you. And as

such

6 - - and as far as the other incidents in your

complaints,

7 you allege felony charges and things.

Obviously that's

8 for the district attorney or whoever to

investigate, but

9 you didn't present any further evidence as it

relates to

10 any of the other complaints when it was

specifically

11 asked by counsel here if we wanted to address

any of the

12 other issues. So no evidence has been provided

on any

13 of those other counts. As such, I believe that

the

14 evidence here is clear and convincing that you

haven't

15 met your burden, and that the appropriate - -
the request
16 to dismiss this action is appropriate. I don't
believe,
17 even looking at any light most favorable to Mr.
McCray,
18 that there's any basis for him to succeed in his
lawsuit
19 here. And as such, I'm going to grant the
City's
20 request to dismiss this action.
21 MR. McCRAY: Can I ask one
question, Your Honor?
22 THE COURT: You can.
23 MR. MCCRAY: When the
information was given to
24 the police and fire commission, they are
required by law
25 to investigate - - or to hold a hearing on this
matter,

TRANSCRIPT: Case No. 18-CV-421

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1 and I have the actual statute which states that.
2 THE COURT: All right. Sir,
the time for
3 evidence in the matter and presentation is
over. I

4 asked you on two occasions whether there was
anything
5 else and you indicated no. So your request now
is not
6 timely. Mr. Engelke, anything else you need?

7 MR. ENGELKE: No. I was
going to prepare an
8 order.

9 THE COURT: I was going to
ask you to prepare
10 the order.

11 MR. ENGELKE: And I'm
happy to do so. And yeah,
12 I guess I'll follow up and, you know, prepare a
bill of
13 costa as well, and the court can review it and
14 Mr. McCray will have an opportunity to object,
so.

15 THE COURT: All right.
That's it for today.

16 MR. ENGELKE: Thank you.

17 MR. MCCRAY: Thank you.

18 (Proceedings concluded.)

**STIPULATION AND ORDER FOR DISMISSAL
OF ALL CLAIMS: Case No. 18-CV-421**

Page 1 of 4

STATE OF WISCONSIN CIRCUIT COURT ROCK
COUNTY

[Stamped]: Received
Aug 06, 2018
By: s/ Ronald McCray

RONALD McCRAY,
Plaintiff,

V.

Case No. 18-CV-421

Code: 30107

THE CITY OF BELOIT, DAVID B.
ZIBOLSKI, CHIEF OF POLICE, CAPTAIN
DAN RISSE, SGT EDMUND GATES and
OFFICER KERRY DAUGHERTY,

Defendants.

**STIPULATION AND ORDER FOR DISMISSAL OF
ALL CLAIMS**

This matter came on for a Motion Hearing on
August 3, 2018 at 10:00 a.m., the Honorable Jeffrey
Kuglitsch presiding. Defendants City of Beloit, et al.
("City Defendants"), by their attorneys, Stafford
Rosenbaum, LLP, previously filed a Motion to Dismiss
on the basis that the plaintiff failed to comply with

the notice requirements of Wis. Stat. § 893.80 and/or failed to state claim. Based on the prior pleadings, proceedings, and the evidence and arguments presented during the Motion Hearing on August 3, 2018, the Court rendered a ruling granting the motion and dismissing the Complaint for plaintiff's failure to comply with Wis. Stat. § 893.80 and for failure to state a claim. In support of its ruling, the Court made the following factual determinations:

**STIPULATION AND ORDER FOR DISMISSAL
OF ALL CLAIMS: Case No. 18-CV-421**

Page 2 of 4

- 1) The plaintiff's claims of defamation arose no later than March 3, 2017 making the present claims untimely based on Jude Dillon's prior Order for Dismissal dated November 1, 2017;
- 2) The plaintiff failed to show both that there was actual notice of a claim before May 31, 2017 and that there was a lack of prejudice for failure to comply with Wis. Stat. § 893.80;
- 3) Finally, in light of the evidence offered, there was no statement made by the City Defendants capable of a defamatory meaning.

The Court further ruled that the plaintiff failed to provide either legal or factual support for any of the remaining claims set forth in the Complaint.

The City Defendants have agreed to dismiss this case without costs in exchange for the plaintiff

waiving his right to appeal and releasing any claim, known or unknown, against the City of Beloit or its agents and/or officials (including, but not limited to, the individuals referenced in ¶ 129 of the Complaint) that in anyway arises or relates to the allegations in the Complaint and/or the complaint made against Mr. McCray on February 23, 2017.

Thus, all the above-captioned parties, by their respective counsel, stipulate that all claims made by the plaintiff may be dismissed with prejudice, without further notice or hearing, and without costs to any party. This agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. Any counterpart may be delivered by facsimile or other form of electronic transmission and the delivery of a copy or digital image of an executed original or counterpart shall have the same force and effect as the delivery of an executed original.

**STIPULATION AND ORDER FOR DISMISSAL
OF ALL CLAIMS: Case No. 18-CV-421**

Page 3 of 4

Dated: August __, 2018	Ronald McCray By _____ Ronald McCray
Dated: August __, 2018	STAFFORD ROSENBAUM LLP By _____ Ted Waskowski

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State Bar Number 1003254
Kyle W. Engelke State Bar
Number 1088993
Attorneys for Defendants
Defendants

**STIPULATION AND ORDER FOR DISMISSAL
OF ALL CLAIMS: Case No. 18-CV-421**

Page 4 of 4

STATE OF WISCONSIN CIRCUIT COURT ROCK
COUNTY

RONALD McCRAY,
Plaintiff,

V.

Case No. 18-CV-421

Code: 30107

THE CITY OF BELOIT, DAVID B.
ZIBOLSKI, CHIEF OF POLICE, CAPTAIN
DAN RISSE, SGT EDMUND GATES and
OFFICER KERRY DAUGHERTY,

Defendants.

ORDER FOR DISMISSAL OF ALL CLAIMS

Based upon the foregoing stipulation,

IT IS HEREBY ORDERED:

That the Court enters this Order based on the factual findings contained in the parties' stipulation and order for dismissal, and that all claims between the above-captioned parties are dismissed with prejudice, on the merits and without costs to any party.

BY THE COURT:

(Proposed Order of Dismissal; Case No. 18-CV-421/ please note: the word "Proposed" is not written on the following proposed order)

Page 1 of 2

[Stamped]: Received
Aug 24, 2018
By: s/ Ronald McCray

[Court Stamp]: Received 08-22-2018

STATE OF WISCONSIN CIRCUIT COURT ROCK
COUNTY

RONALD McCRAY,
Plaintiff,

v.

Case No. 18-CV-421

Code: 30107

THE CITY OF BELOIT, DAVID B.
ZIBOLSKI, CHIEF OF POLICE, CAPTAIN
DAN RISSE, SGT EDMUND GATES and
OFFICER KERRY DAUGHERTY,
Defendants.

ORDER OF DISMISSAL

This matter came on for a Motion Hearing on August 3, 2018 before the Honorable Jeffrey Kuglitsch. Defendants City of Beloit, et al. ("City Defendants"), by their attorneys, Stafford Rosenbaum, LLP, previously filed a Motion to Dismiss ("Motion") on the basis that the plaintiff failed to comply with the notice requirements of Wis. Stat. § 893.80 and/or failed to state claim. Based on the prior pleadings, proceedings, and the evidence and arguments presented during the Motion Hearing, the Court rendered a ruling granting the motion and dismissing the Complaint for plaintiff's failure to comply with Wis. Stat. § 893.80 and for failure to state a claim. In support of its ruling, the Court made the following factual determinations:

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0822180852

Proposed Order of Dismissal; Case No. 18-CV-421

Page 2 of 2

- 1) The plaintiff's claims of defamation arose no later than March 3, 2017 making the present claims untimely based on Jude Dillon's prior Order for Dismissal dated November 1, 2017;
- 2) The plaintiff failed to show both that there was actual notice of a claim before May 31, 2017 and

that there was a lack of prejudice for failure to comply with Wis. Stat. § 893.80;

- 3) Finally, in light of the evidence offered, there was no statement made by the City Defendants capable of a defamatory meaning.

The Court further ruled that the plaintiff failed to provide either legal or factual support for any of the remaining claims set forth in the Complaint.

Therefore, IT IS ORDERED that all claims made by the plaintiff are dismissed with prejudice, without further notice or hearing, and that the City of Beloit may recover costs from the plaintiffs as provided by statute.

This is a final order for purposes of appeal.

BY THE COURT:

ORDER OF DISMISSAL: Case No. 18-CV-421

Page 1 of 2

[Court Stamp]: Received 08-22-2018

FILED

08-24-2018

Clerk of Circuit Court

Rock County, Wisconsin

2018CV000421

STATE OF WISCONSIN CIRCUIT COURT ROCK
COUNTY

RONALD McCRAY,

Plaintiff,

v.

Case No. 18-CV-421

Code: 30107

THE CITY OF BELOIT, DAVID B.
ZIBOLSKI, CHIEF OF POLICE, CAPTAIN
DAN RISSE, SGT EDMUND GATES and
OFFICER KERRY DAUGHERTY,

Defendants.

ORDER OF DISMISSAL

This matter came on for a Motion Hearing on August 3, 2018 before the Honorable Jeffrey Kuglitsch. Defendants City of Beloit, et al. ("City Defendants"), by their attorneys, Stafford Rosenbaum, LLP, previously filed a Motion to Dismiss ("Motion") on the basis that the plaintiff failed to comply with the notice requirements of Wis. Stat. §

893.80 and/or failed to state claim. Based on the prior pleadings, proceedings, and the evidence and arguments presented during the Motion Hearing, the Court rendered a ruling granting the motion and dismissing the Complaint for plaintiff's failure to comply with Wis. Stat. § 893.80 and for failure to state a claim. In support of its ruling, the Court made the following factual determinations:

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0822180852

ORDER OF DISMISSAL: Case No. 18-CV-421

Page 2 of 2

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- 2) The plaintiff failed to show both that there was actual notice of a claim before May 31, 2017 and that there was a lack of prejudice for failure to comply with Wis. Stat. § 893.80;
- 3) Finally, in light of the evidence offered, there was no statement made by the City Defendants capable of a defamatory meaning.

The Court further ruled that the plaintiff failed to provide either legal or factual support for any of the remaining claims set forth in the Complaint.

Therefore, IT IS ORDERED that all claims made by the plaintiff are dismissed with prejudice, without

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further notice or hearing, and that the City of Beloit
may recover costs from the plaintiffs as provided by
statute.

This is a final order for purposes of appeal.

BY THE COURT:

s/Electronically signed by Jeffrey S. Kuglitsch

Circuit Court Judge

08/23/2018

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