

STATE OF WISCONSIN  
IN SUPREME COURT

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Case No. 91-0923

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STATE OF WISCONSIN,  
Plaintiff-Respondent,

v.

KATHLEEN BRAUN,  
Defendant-Appellant-Petitioner.

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On Petition For Review Of A Decision  
Of The Court Of Appeals, District I,  
Affirming The Order Entered In The  
Circuit Court For Milwaukee County,  
The Honorable Ted E. Wedemeyer, Jr.,  
Circuit Judge, Presiding

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REPLY BRIEF OF DEFENDANT-  
APPELLANT-PETITIONER

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Appellant-Petitioner

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N. J. M. 1000

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STATE OF WISCONSIN

Plaintiff

KATHLEEN BRAUN

Defendant

REPLY BRIEF FOR DEFENDANT

THE PROCEDURAL DISMISSAL OF MR. BRAUN'S ORIGINAL PETITION FOR HABEAS CORPUS DOES NOT BAR HIS CURRENT PETITION FOR HABEAS CORPUS

The state court's dismissal of Mr. Braun's first habeas petition was based on two grounds: first, that the state court had already ruled on the merits of his claim, and second, by denying his petition for a writ of habeas corpus under Wis. Stat. § 895.01(1)(b). The state court's dismissal of Mr. Braun's first habeas petition is not a bar to his current petition for habeas corpus. *See* Wis. Stat. § 895.01(1)(b); *Ortega-Rodriguez v. State of Wis.*, 2014 WI 100, 358 Wis.2d 100, 928 N.W.2d 100 (2014).

Finally, the state court's decision in *Beretta* is not binding on the state court in this case. The state court's decision in *Beretta* is not binding on the state court in this case because the state court's decision in *Beretta* is not binding on the state court in this case.

N.W.2d 199 (1976) (holding that a defendant's failure to file a motion for judgment of acquittal within the time specified in the court's post-verdict order does not constitute a waiver of the right to a new trial, and that the state's failure to object to the court's post-verdict order does not constitute a waiver of the right to a new trial).<sup>1</sup>

**Waiver** of the right to a new trial is not a haphazard blend of the rules governing the dismissal only of motions for judgment of acquittal, escape, and habeas corpus, and the rules governing any future remedies available to a defendant who escapes. See State v. [redacted], 193 N.W.2d 88 (1980) (holding that a defendant's failure to file a motion for judgment of acquittal within the time specified in the court's post-verdict order does not constitute a waiver of the right to a new trial, and that the state's failure to object to the court's post-verdict order does not constitute a waiver of the right to a new trial).<sup>2</sup>

<sup>1</sup> The state does not argue that the court's ruling ignores it. In any event, the court's interpretation of §245 is not binding on the legislature. As a result, the court's ruling is not binding on this Court in the future. See, e.g., *State v. [redacted]*, 193 N.W.2d 666 (1980) (holding that the court's ruling in *State v. [redacted]* is not binding on this Court in the future).<sup>2</sup>

<sup>2</sup> Reliance upon the court's ruling is necessary nor appropriate in the context of §805 for the reasons stated in criminal cases. If it did apply to the prosecution for the state objective of the law. See *State v. [redacted]*, 808-816 (1980).

That, as a result, the court has the right to collateral review of the conviction filed following the defendant's appeal to dismiss a pending charge. It would imply the power to review the state claims of relief (to prevent a trial to deny post-arrest punishment (e.g. escape)). This is a violation of §974.06(4) which states that a knowing and intentional violation of 10-12

Ms. B. ... any collateral review of the issues in the ... tunity to bear ... Court has no ... point. See *Ward v. ... N.W.2d 155* ... "[t]o relax the ... sense and de ... tion of ind ... State v. Milash ... (Ct. App. 1990) ... 471 N.W.2d 4

**Cause And Prejudice** ... cases interpret ... involving totally ...



urges this Court to require Ms. B... "procedural defects... direct appeal... essary precedent... nor its underlying...

Under... procedural defects... poraneous... U.S. 12 (1972)... requiring all... appeal, Smith... Ross 468 U.S... as a matter of... Procedure §11... dure"). The... latter is fore... cedural rules... tional issue... tion under Wis... erly have been... supra; Loop...

App... plete subst... not every iss... appeal can... tion " Loop...

limited to jurisdiction over the defendant's conduct. See, e.g., State v. Nix, 1988 WL 1000 (Ct. App. 1988), 301 (Ct. App. 1988). The defendant's right to a public trial is not taken away if the trial is not taken down to the level made later. It is not a

These cases are not the federal courts. The federal courts clearly have the right to federal courts. It also account for its rules and procedures. An interest in courts were the state courts. Criminal Procedure has no relevance to own conviction. It not require a trial. It has so held. It amended the state

ARBITRARY EXCLUSION OF A DEFENDANT  
DENIED MS. 1006 IN HER STATE

at 18:37

is a violation of the Equal Protection Clause. The court's  
reversal. See *State ex rel. ... Tax*  
App. 1993) (affirming the court's  
mandated reversal.

The state's argument that the court's decision is  
less stringent than the court's decision in *State ex rel. ...*  
sure is partially correct. The court's decision is  
ally hold that the court's decision is not a  
tial closure of the business. See *State ex rel. ...*  
riding". See *State ex rel. ...*  
But see *State ex rel. ...*  
141 Wis. 2d 1000 (1983) (affirming the court's  
"compelling" interest in the state's cases.  
may be required to pay the state's share of  
closure damage. See *State ex rel. ...*  
*Douglas v. Warner* (1983) (vacated)  
mand. 739 F.2d 1000 (1984)  
U.S. 1208 (1984) (affirming the court's  
(Alaska App. 1984)

The court's decision is not a violation of the  
cause the expenditure of state funds.  
rectly conceded that the state's argument  
was not justified.



Prejudice is not shown by the fact that the trial was held in public. The fact that the trial was held in public is not a sufficient basis for a finding of prejudice. The fact that the trial was held in public is not a sufficient basis for a finding of prejudice. The fact that the trial was held in public is not a sufficient basis for a finding of prejudice.

"a crime is not a crime until it is found to be a crime by a criminal court. The fact that a crime is committed does not make it a crime until it is found to be a crime by a criminal court. The fact that a crime is committed does not make it a crime until it is found to be a crime by a criminal court."

Id. (citation omitted). See also *State v. Webb*, 466 P.2d 1000, 1001 (Wash. 1970), cert. denied, 401 U.S. 970 (1971). See Waller, 466 P.2d at 1001.

Notwithstanding the fact that the trial was held in public, the argument in favor of a finding of prejudice is not supported by the facts. The fact that the trial was held in public is not a sufficient basis for a finding of prejudice. The fact that the trial was held in public is not a sufficient basis for a finding of prejudice. The fact that the trial was held in public is not a sufficient basis for a finding of prejudice.

The fact that the trial was held in public is not a sufficient basis for a finding of prejudice. The fact that the trial was held in public is not a sufficient basis for a finding of prejudice. The fact that the trial was held in public is not a sufficient basis for a finding of prejudice.



Lane, 489 U.S. 171, 180 (1989).

Even if the State's argument is correct, the fact that the very same impalpable substance is found in the defendant's underwear is impossible to explain as a coincidence, especially when the defendant is wearing the underwear. The State's argument is also unavailing because the defendant is not claiming harmless error. *Dyess*, 124 W.2d 100, 103 (1943). The State's argument goes beyond baldly asserting that the State's case is strong and that the state makes no error.

**PROSECUTORIAL MISCONDUCT INVOLVING THE STATE'S  
OF HER RIGHT TO A FAIR TRIAL AND A PUBLIC TRIAL**

The State's argument that the defendant's testimony in front of Ms. Bess was not a prosecutorial error is not amply rebutted by the fact that the defendant testified on 26-36. She was not asked to testify on 26-36.

**Seymour v. State**, 400 P.2d 1000, 1001 (1965). At the time of the defendant's testimony, the State's agreement to a plea bargain was not a prosecutorial error that such would be the case. Nonetheless, the State's argument is contrary to the defendant's right to a fair trial. (R4-15-16). The State's argument is also contrary to the defendant's right to a public trial. The State's request for a plea bargain is not a prosecutorial error. At least a hearing should be held on the defendant's request for a plea bargain. The State's argument is also contrary to the defendant's right to a public trial. *N.W.2d 73* (1988).

The State's argument that the defendant's testimony is arguable that they are not a prosecutorial error is not

son time, State v. [redacted] 100  
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sponses to determine whether the jury to draw reasonable inferences. The state is wrong if the inference is not appropriate when the relationship between the facts and the inference is not "causal." State v. [redacted] 743 (1979) [redacted] of proving an [redacted] defendant is not [redacted] 6054) and that [redacted] the uncorroborated [redacted] an accomplice [redacted] that defense [redacted] 5881) See also [redacted] 90 N.W.2d 56 [redacted] missing wife [redacted]

MS. [redacted] WAS IN THE [redacted] [redacted] [redacted] [redacted]

THE [redacted] [redacted]

is demonstrated.

The debate then

ONCE UPON A

For this

Ms. Braun asked

remand this case

Date: 11/11/11

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