

As an independent reason for dismissal, Plaintiffs seek to use an inappropriate procedural vehicle to raise their claims. This case is an attempted end-run around established criminal procedures to raise challenges based upon the constitutional right to counsel, whether in a pending criminal proceeding or post-conviction. Plaintiffs' approach would impermissibly sidestep the required criminal procedure to raise such claims and would ignore the circumstances of each case.

Plaintiffs also failed to serve their proceeding on legislative officers, as required by Wis. Stat. § 806.04(11), when challenging the constitutionality of Wisconsin's statutes establishing a public-defense system. Due to this deficiency, this Court lacks competency to proceed.

Lastly, Plaintiffs' allegations against Governor Evers fail to state a viable claim because the Governor has nothing to do with when or how qualified indigent defendants receive appointed counsel.

This Court should dismiss the amended complaint with prejudice.

BACKGROUND

I. The Office of the Wisconsin State Public Defender provides representation to indigent criminal defendants.

SPD is a statewide, independent, executive agency that provides representation to indigent criminal defendants in two ways. First, some indigent defendants receive representation from staff counsel employed by

SPD. Wis. Stat. §§ 977.05(4)(i), 977.08(3)(d). Second, SPD delegates the representation of some indigent defendants to private members of the State Bar of Wisconsin. Wis. Stat. § 977.05(5)(a).

Delegated representation typically occurs when SPD staff attorneys have a conflict of interest (which often occurs in multi-defendant cases) or resource constraints. *See* SPD Facts-At-A-Glance, Wis. State Pub. Defenders, <http://www.wisspd.gov/facts-at-a-glance> (last visited Jan. 27, 2023) (“Facts-At-A-Glance”). During fiscal year 2018, around 40% of statewide indigent defense cases were assigned to SPD-appointed private counsel. Facts-At-A-Glance.

To find private counsel for indigent defendants, SPD first asks attorneys in each Wisconsin county to sign up on a list of attorneys willing to represent indigent defendants. Wis. Stat. § 977.08(2). When SPD needs to find a private attorney to represent an indigent defendant, it typically contacts private attorneys on this list. Wis. Stat. § 977.08(3)(c). SPD can also appoint a private attorney who previously represented the defendant. Wis. Stat. § 977.08(3)(e). When SPD finds a private attorney willing to serve as counsel, the attorney’s compensation rate is fixed by statute. Wisconsin Stat. § 977.08(4m)(d) currently provides that the private attorney shall be paid \$70 per hour for time spent on the case (excluding travel). Private appointments can also be paid through fixed-fee contracts, Wis. Stat. § 977.08(3)(f), and in fiscal year 2018,

around 3% of all private appointments were paid using such contracts. Facts-At-A-Glance.

It takes effort and time to locate private counsel willing to accept representation of an indigent defendant. In some remote counties such as Ashland, Bayfield, and Iron, SPD has needed to contact an average of 39 attorneys, taking an average of 24 days, to find a private attorney willing to accept an appointment. Letter from Kelli S. Thompson to Clerk of the Supreme Court Sheila Reiff, at 4 (May 1, 2018), <https://wicourts.gov/supreme/docs/1706commentsthompson.pdf> (last visited Jan. 27, 2023). SPD has tried to accelerate the process by reassigning SPD-employed staff attorneys and support staff from other areas to regions of heightened need and offering free training to private attorneys who accept appointments. *Id.*

When SPD has difficulty finding private attorneys willing to represent an indigent defendant, the trial court has inherent authority to appoint counsel. *See State v. Lehman*, 137 Wis. 2d 65, 68, 403 N.W.2d 438, 440 (1987). Court-appointed counsel can be compensated at a different rate than the statutory rate for SPD-appointed private counsel. *See State ex rel. Friedrich v. Cir. Ct. for Dane Cnty.*, 192 Wis. 2d 1, 531 N.W.2d 32 (1995). Counties, not SPD or any other state-level entity, are obligated to pay court-appointed counsel. *See Carpenter v. County of Dane*, 9 Wis. 274 (1859).

II. Background facts relating to Plaintiffs and assignment of counsel for them

According to the amended complaint, Plaintiffs “have been charged with crimes punishable by a terms of imprisonment and—despite having requested and been found eligible for public defense counsel at or after their initial appearances—were denied an attorney for fourteen days or more.” (R.48:10–11 ¶ 26.) Plaintiffs allege facts regarding when their initial appearances were scheduled and rescheduled and whether they were in custody while awaiting appointed counsel. (Doc. 48:13–18 ¶¶ 35–52.) The following Plaintiffs allege in the amended complaint that they already have appointed counsel: Antrell Thomas, Melvin Clemons, Christian Pittman, Chance Kratochvil, Kelsie McGeshick, Jerome Brost, and Dwight Moore. (Doc. 48:13–15 ¶¶ 35–41.) (Logan Arsenyevictz was a plaintiff in the initial complaint; he is not in the amended complaint. *Compare* Doc. 12:1, 6, 11 ¶ 19, *with* 48:1–2, 13–18.)

As of today’s filing, and as a matter of public record, each Plaintiff has received appointed counsel in his or her criminal case. The following table includes information from CCAP, which this Court can take judicial notice of pursuant to Wis. Stat. § 902.01. *Kirk v. Credit Acceptance Corp.*, 2013 WI App 32, ¶ 5 n.1, 346 Wis. 2d 635, 829 N.W.2d 522.

| Plaintiff | Case Numbers (County) | Counsel appointments |
|--------------------|--|---|
| Sebastian Popovich | 22CF1002 (Brown) | Jan. 18, 2023, appointment order |
| Melinda Meshigaud | 21CF1371, 21CF1372 (Brown) | Dec. 22, 2022, appointment orders |
| Elmore Anderson | 22CF1786 (Brown) | Dec. 21, 2022, appointment order |
| Cashun Drake | 22CF4377 (Milwaukee) | Jan. 5, 2023, appointment orders |
| Terry Johnson | 22CF4224, 22CM1235 (Milwaukee) | Dec. 20, 2022, & Jan. 13, 2023, appointment orders |
| Timothy Williams | 22CF4265, 22CF4449 (Milwaukee) | Jan. 11, 2023, appointment orders |
| William Lowe | 22CF628, 22CM451, 22CM604 (Manitowoc) | Dec. 22, 2022, appointment orders |
| Tivon Wells | 22CF685 (Manitowoc) | Jan. 5, 2023, appointment order |
| Davadae Bobbitt | 22CF1544 (Brown) | Jan. 4, 2023, appointment order |
| Donald Jueck | 22CF188, 22CM102 (Langlade) | Dec. 21, 2022, appointment orders |
| Cory Hansen | 22CF159 (Langlade) | Jan. 17, 2023, appointment orders |

A copy of the appointment orders for Plaintiffs who were added in the amended complaint are being filed as Exhibit A to this motion for the Court's convenience. Defendants previously filed an exhibit with the original Plaintiffs' appointment orders. (Doc. 37:27–36.)

LEGAL STANDARD

“Wisconsin Stat. § 802.02(1) sets the requirements for a complaint if it is to withstand a motion to dismiss for failure to state a claim.” *Data Key Partners v. Permira Advisers, LLC*, 2014 WI 86, ¶ 20, 356 Wis. 2d 665, 849 N.W.2d 693. Section 802.02(1)(a) requires that a pleading “shall contain,” among other things, “[a] short and plain statement of the claim, identifying the transaction or occurrence or series of transactions or occurrences out of which the claim arises and showing that the pleader is entitled to relief.”

“[T]o satisfy Wis. Stat. § 802.02(1)(a), a complaint must plead facts, which if true, would entitle the plaintiff to relief.” *Id.* ¶ 21. “[T]he sufficiency of a complaint depends on substantive law that underlies the claim made because it is the substantive law that drives what facts must be pled.” *Id.* ¶ 31. To withstand a motion to dismiss, “[p]laintiffs must allege facts that plausibly suggest they are entitled to relief.” *Id.* In determining the sufficiency of a complaint, a court will “assume the facts set forth in the complaint are true and consider only the facts set forth therein.” *Peterson v. Volkswagen of Am., Inc.*, 2005 WI 61, ¶ 15, 281 Wis. 2d 39, 697 N.W.2d 61. The court does not accept legal conclusions as true. *Data Key Partners*, 356 Wis. 2d 665, ¶ 19.

ARGUMENT

Plaintiffs contend that “Wisconsin’s public defense system is unconstitutional as to [them] and the Class” and that “by administering this unconstitutional system, and thereby failing to timely appoint attorneys for [them] and the Class, Defendants have violated—or are currently violating— [their] and the Class’s constitutional rights to counsel.” (Doc. 48:11 ¶ 29.) Relying on the Sixth and Fourteenth Amendments to the U.S. Constitution and article I, section 7 of the Wisconsin Constitution, (Doc. 48:34–36), they claim that “the Wisconsin Supreme Court has ‘condemned’ delays in the appointment of counsel that take longer than fourteen days, consistently finding such delays to be unreasonable” and has critiqued similar-length delays (Doc. 48:22 ¶ 72 (footnote omitted); *see also* 48:22 ¶ 72 n.27). Plaintiffs allege that their “action is properly maintainable as a class action” (Doc. 48:32 ¶ 113). Their putative class action allegedly satisfies Wis. Stat. § 803.08. (Doc. 48:32–33 ¶¶ 106–18.)¹

The amended complaint does not “plead facts, which if true, would entitle the plaintiff[s] to relief.” *Data Key Partners*, 356 Wis. 2d 665, ¶ 21. There are several independent reasons this Court should dismiss the amended complaint under Wis. Stat. § 802.06(2).

¹ Plaintiffs propose a class action. This Court need not take up any class-certification issues because the case should be dismissed on the pleadings.

First, Plaintiffs' claims are moot since they now have appointed counsel. Second, there is no constitutional right to receive court-appointed counsel within two weeks after an initial appearance—no court has recognized such a categorical right, and it must be a fact-specific inquiry in each individual case. Third, Plaintiffs are using an inappropriate procedural vehicle—a civil action for declaratory and injunctive relief—to raise constitutional claims that must be raised in criminal courts or post-conviction. Fourth, Plaintiffs failed to serve their amended complaint on legislative officers, as required by Wis. Stat. § 806.04(11), resulting in this Court lacking competency to proceed. Lastly, Governor Evers should be dismissed because he has no role in SPD's counsel appointments.

I. Plaintiffs' claims are moot.

A. A case is moot when the resolution of an issue will have no practical effect on the underlying controversy.

The mootness doctrine is based on the general rule that “court[s] will not determine abstract principles of law.” *City of Racine v. J-T Enters. of Am., Inc.*, 64 Wis. 2d 691, 699, 221 N.W.2d 869 (1974). The U.S. Supreme Court has described mootness as “the doctrine of standing set in a time frame: The requisite personal interest that must exist at the commencement of the litigation (standing) must continue throughout its existence (mootness).” *U.S. Parole Comm’n v. Geraghty*, 445 U.S. 388, 397 (1980) (citation omitted).

“A case is moot when the resolution of an issue will have no practical effect on the underlying controversy.” *Sauk County v. S. A. M.*, 2022 WI 46, ¶ 19, 402 Wis. 2d 379, 975 N.W.2d 162; *see also J-T Enters. of Am.*, 64 Wis. 2d at 700–02. “[A] moot question is one which circumstances have rendered purely academic.” *State ex rel. Olson v. Litscher*, 2000 WI App 61, ¶ 3, 233 Wis. 2d 685, 608 N.W.2d 425. The Wisconsin Supreme Court has explained that “[m]oot cases will be decided on the merits only in the most exceptional or compelling circumstances.” *J-T Enters. of Am.*, 64 Wis. 2d at 702.

B. Plaintiffs’ claims are moot because they have appointed counsel in their criminal cases.

Plaintiffs’ claims are moot because they have appointed counsel in their criminal cases. As Exhibit A to this motion demonstrates, the appointments occurred before or shortly after Plaintiffs filed their amended complaint.

Plaintiffs’ receipt of appointed counsel makes this Court’s resolution of their claims moot because resolving them “will have no practical effect on the underlying controversy.” *S. A. M.*, 402 Wis. 2d 379, ¶ 19. There is *no* underlying controversy, making a declaration meaningless and leaving nothing for this Court to enjoin. Wis. Stat. § 806.04(6) (declaratory relief is discretionary, and a “court may refuse to render or enter a declaratory judgment or decree where such judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding”).

II. Courts evaluate whether a delay violates a defendant's constitutional or statutory rights based on the facts of the individual case, and there is no constitutional right to receive appointed counsel within two weeks after an initial appearance.

Aside from mootness, Plaintiffs' claims fail as a matter of law. Plaintiffs allege Defendants violated Plaintiffs' rights when more than 14 days elapsed since their initial appearances without them being appointed counsel. (Doc. 48:10–12, 24, 32, 33, 35 ¶¶ 26, 28, 30, 81, 107, 114, 115, 125, 129, 132; 48:22 ¶ 72 (“Beyond fourteen days, delays in the provision of appointed counsel cannot be justified by any particularized circumstances and are therefore unreasonable.”).) But there is no constitutional right to receive appointed counsel within two weeks after an initial appearance; the inquiry depends upon the facts of each case.

The amended complaint references Wisconsin Supreme Court cases that purportedly establish the specific right to counsel that Plaintiffs allege is being violated. (Doc. 48:22 ¶ 72 & nn.26–27.) These cases do no such thing.

Wolke v. Rudd reversed a circuit court's order granting a habeas petition when an indigent defendant was not appointed counsel until 11 days after his initial appearance. 32 Wis. 2d 516, 517–19, 522, 145 N.W.2d 786 (1966). The defendant testified that “had counsel been appointed immediately, he would have been able to remember facts that he now claims he has forgotten.” *Id.* at 519. The supreme court found no constitutional violation, *id.* at 521–22, and

noted that “such delay [in appointing counsel] is regrettable and should be avoided in a properly administered system of justice.” *Id.* at 520.

In *Jones v. State*, 37 Wis. 2d 56, 154 N.W.2d 278 (1967), the court considered whether “a twenty-eight-day interval between arrest and advising a defendant of his right to counsel, and an additional four-day delay in appointing counsel, offend[ed] the due process clause of the fourteenth amendment.” *Id.* at 62. The court again found no constitutional violation. *Id.* at 66–69. The court held that there was a lack of compliance with Wis. Stat. § 957.26(2), “requiring that counsel actually be appointed ‘prior to any plea and prior to any preliminary examination,’” *id.* at 68, but that it did not necessitate reversal of the conviction. *Id.* at 68–69. The court called the delay in appointing counsel “regrettable” and noted that “these delays should be minimized in our criminal justice system.” *Id.* at 69.

In *Kaczmarek v. State*, 38 Wis. 2d 71, 76, 84, 155 N.W.2d 813 (1968), the supreme court again declined to find a constitutional violation based on delay in appointing counsel. Kaczmarek made an initial appearance on the day after his arrest, and the circuit court appointed counsel 11 days later, at his arraignment. *Id.* at 74–75. The supreme court noted that the delays in appointing counsel in *Wolke* and *Jones* had not violated the accused’s constitutional rights. *Id.* at 79. While the court called the delay between the prompt transference of the case to the circuit court and the actual appointment

of counsel “troublesome,” it did not make its determination based on the length of delay. Instead, it examined whether the delay prejudiced Kaczmarek’s interests based on the facts at hand and concluded that he had not even alleged such prejudice: “In the light of his subsequent plea of guilty, it would be difficult to see what such reason could be. In any event, there is no claim of causal connection between the ten-day delay and the plea of guilty.” *Id.* at 79.

In *Okrasinski v. State*, 51 Wis. 2d 210, 212–15, 219, 186 N.W.2d 314 (1971), the supreme court similarly held that a failure to appoint counsel was subject to a harmless-error analysis. Okrasinski was not appointed counsel at his initial appearance, but the court gave him the opportunity to be heard on all motions he asserted, and his counsel had almost one month after appointment to prepare for trial. *Id.* at 215. The court explained that the statutory mandate under Wis. Stat. § 970.02(6) that appointment of counsel for an indigent take place at the initial appearance “will be considered harmless error unless there is evidence that the defendant was prejudiced by failure to appoint counsel.” *Id.* at 214.

The federal precedent Plaintiffs reference also does not help them. (Doc. 48:2, 11, 21 ¶¶ 2, 28, 69 & nn.4, 13, 24; *see also* 48:20, 22, 34, 35 ¶¶ 71–73, 122, 124, 128, 131.) *Rothgery v. Gillespie County*, 554 U.S. 191 (2008), holds that “counsel must be appointed *within a reasonable time* after attachment to allow for adequate representation at any critical stage before trial, as well as at trial

itself.” *Id.* at 212. The case does not create a per se rule that counsel must be appointed within two weeks after the initial appearance. In other contexts, “reasonableness” is “a fact-intensive inquiry, measured in objective terms, by examining the totality of the circumstances.” *State v. Crone*, 2021 WI App 29, ¶ 14, 398 Wis. 2d 244, 961 N.W.2d 97 (evaluating the reasonableness of a Fourth Amendment detention). Plaintiffs’ claims would throw that particularized inquiry out the window.

In addition to the cases referenced by Plaintiffs’ complaint, a more recent case, *State v. Lee*, 2021 WI App 12, 396 Wis. 2d 136, 955 N.W.2d 424, confirms that claims based on alleged delays in appointment of counsel require a fact-specific inquiry. The defendant in *Lee* alleged that the circuit court had failed to properly exercise its discretion under Wis. Stat. § 970.03(2), which generally requires that a preliminary hearing be held within ten days of a defendant’s initial appearance if the defendant is in custody on a felony charge and bail is set in excess of \$500, but gives the court discretion to find “cause” to delay a preliminary hearing to a later date. 396 Wis. 2d 136, ¶¶ 1, 25. Lee had been held in custody for 101 days without counsel while SPD searched for an attorney willing and able to represent him. His preliminary hearing, repeatedly extended while the search for counsel continued, occurred 113 days after his initial appearance. *Id.* ¶ 1. SPD made over 100 contacts with attorneys before securing an appointment for Lee. *Id.* ¶¶ 13, 52.

Lee's appointed counsel ultimately unsuccessfully moved to dismiss the criminal complaint. *Id.* ¶ 18. On appeal, the court of appeals addressed what constitutes "cause" under Wis. Stat. § 970.03 to extend the time limit for a preliminary examination. The court agreed with Lee that the circuit court had failed to properly exercise its discretion in applying that statute. *Id.* ¶ 51. The court noted that "[c]ertainly, difficulty in locating competent counsel to represent an indigent defendant can be a justifiable reason for extending the time limit for the preliminary hearing, especially early in the proceedings." *Id.* But the court required more explanation for the exercise of discretion—the facts mattered. Specifically, "[t]here was no inquiry, however, regarding the reasons that more than 100 attorneys had declined representation." *Id.* ¶ 52. "Those reasons are important when determining whether there was good cause to extend the time limit for holding the preliminary hearing." *Id.* The court catalogued case-specific circumstances that a court should consider in deciding whether to sua sponte delay a preliminary examination under Wis. Stat. § 970.03(2), including:

- "There may be a general or geographic lack of attorneys qualified to accept an appointment for a particular type of case";
- "[A]ttorneys may have conflicts of interest that preclude them from representing a particular defendant";
- "An attorney's existing caseload may also prevent him or her from taking on another client";

- “[A]ttorneys may not be willing to represent clients at the statutory SPD rate”;
- “[T]he nature of the charges against the defendant, the extent of SPD’s efforts to locate counsel, the reasons for the delay in obtaining counsel, and how long that delay is likely to continue given the other circumstances”;
- “[A]lternate avenues of procuring counsel, like court appointment”;
- “[T]he special circumstances of the defendant and whether the purpose of the preliminary hearing will be thwarted by the delay”;
- Whether the defendant is “subject to an extended supervision hold” that could cause him to remain in custody “regardless of whether the preliminary hearing was delayed”;
- “The overall length of the delay”; and
- “[T]he potential for prejudice to the defendant arising out of an extension of the deadline for holding a preliminary hearing,” such as “the potential that the defendant will be subjected to further evidence gathering by the police while incarcerated and the possibility that the delay could compromise the defense or result in lost evidence, to the defendant’s detriment.”

Lee, 396 Wis. 2d 136, ¶¶ 53–58.

Thus, whether considering a claim relating to delay of appointment under either the constitution or Wisconsin statutes, courts have declined to create a categorical rule and instead considered the facts and circumstances of each case. Plaintiffs’ desire for a categorical rule runs against longstanding Wisconsin case law. Their amended complaint thus fails to state a claim “upon which relief can be granted” as a matter of law. Wis. Stat. § 802.06(2)(a)6.

III. Plaintiffs are attempting an end-run around established criminal procedures to raise right-to-counsel claims.

Plaintiffs' claims also fail because they are using an inappropriate procedural vehicle. Established procedures in criminal cases provide the mechanism to raise challenges based upon the constitutional right to counsel. Plaintiffs' approach would act as an end run around those procedures and necessarily ignore the circumstances of each case.

Plaintiffs' criminal proceedings provide an adequate and proper remedy for their claims, a fatal weakness in their request for injunctive and declaratory relief in this civil action. For an injunction to issue, the movant must have no adequate remedy at law. *Sunnyside Feed Co. v. City of Portage*, 222 Wis. 2d 461, 472, 588 N.W.2d 278 (Ct. App. 1998). That rule carries extra force here because Plaintiffs seek to comingle civil and criminal matters. Because they have remedies in *criminal* court, this parallel civil case is not the proper forum for such claims. To hold otherwise would allow civil courts to usurp the role of criminal courts by either supervising ongoing criminal proceedings or by short-circuiting the accepted methods for a defendant to challenge criminal proceedings.

Wisconsin has robust criminal procedures for criminal defendants to assert constitutional violations and to appeal circuit court denials of constitutional challenges, along with collateral civil procedures to do the same.

Wis. Stat. § 808.03 (right to seek a permissive appeal); Wis. Stat. §§ (Rule) 809.30(2), 974.02 (right of direct appeal or motion for postconviction relief); Wis. Stat. § 974.06 (civil process to raise constitutional or jurisdictional challenges after the expiration of a criminal appeal). In addition, as addressed in *Lee*, a court has discretion to extend the time in which a preliminary examination must be commenced under Wis. Stat. § 970.03(2) if cause is shown. 396 Wis. 2d 136, ¶¶ 51–59. “Certainly, difficulty in locating competent counsel to represent an indigent defendant can be a justifiable reason for extending the time limit for the preliminary hearing, especially early in the proceedings.” *Id.* ¶ 51.

Aside from the adequate remedies available through their criminal and post-conviction proceedings, Plaintiffs’ effort to detour to a civil action also would forgo having the court with the factual knowledge about those proceedings review whether any of their rights were violated. Plaintiffs’ constitutional claims would turn on whether they have been denied counsel at “critical stages” of the case—i.e., a proceeding at which “the presence of . . . counsel is necessary to preserve the defendant’s . . . right meaningfully to cross-examine the witnesses against him and to have effective assistance of counsel at the trial itself.” *McMillian v. State*, 83 Wis. 2d 239, 244, 265 N.W.2d 553 (1978) (citation omitted). Like Sixth Amendment ineffective assistance of counsel claims, which must first be litigated in a post-conviction evidentiary

proceeding in criminal court, *State v. Sholar*, 2018 WI 53, ¶ 50, 381 Wis. 2d 560, 912 N.W.2d 89 (citing *State v. Machner*, 92 Wis. 2d 979, 804, 285 N.W.2d 905 (Ct. App. 1979)), here the criminal courts in Plaintiffs' cases are best positioned to analyze the facts of each case.

Many practical difficulties would arise if criminal defendants could use parallel civil cases like this one to challenge things that happen in their criminal proceedings. Contested fact questions would arise regarding the quality of Plaintiffs' representation and the reasons their criminal trials were delayed. That would inevitably require discovery, likely including depositions of both Plaintiffs and their defense counsel focused on the criminal proceedings, covering topics like counsel's strategic decisions and the underlying facts of the criminal charges. Civil discovery of that nature could not help but interfere with the criminal proceeding.

IV. Plaintiffs did not comply with Wis. Stat. § 806.04(11); therefore, this Court lacks competency to proceed.

Plaintiffs failed to serve required legislative officers with their proceeding under Wis. Stat. § 806.04(11), which results in this Court lacking competency to proceed.

A. A plaintiff must strictly comply with the service requirements of Wis. Stat. § 806.04(11), or the circuit court loses competency to proceed.

Wisconsin Stat. § 806.04(11) states that “[i]f a statute is alleged to be unconstitutional . . . the speaker of the assembly, the president of the senate, and the senate majority leader shall also be served with a copy of the proceeding, and the assembly, the senate, and the state legislature are entitled to be heard.” Section 806.04(11) includes a similar requirement for service on the Attorney General. *See id.*

In *S.R. v. Circuit Court for Winnebago County*, the court of appeals concluded that a declaratory-judgment action challenging the constitutionality of certain laws must be dismissed because the plaintiff had failed to give notice to the Attorney General under Wis. Stat. § 806.04. 2015 WI App 98, ¶ 8, 366 Wis. 2d 134, 876 N.W.2d 147. The plaintiffs challenged statutes relating to artificial insemination and the presumption of paternity based upon marriage, but they did not serve the Attorney General with a copy of their proceeding under section 806.04(11). *Id.*

The court concluded that “[w]hen seeking a declaratory judgment, the requirements of Wis. Stat. § 806.04 control,” *id.* ¶ 10, and that “the maintenance of a declaratory [judgment] action requires strict compliance with [§] 806.04.” *Id.* (citation omitted). The court reasoned that “[i]n a declaratory [judgment] action the failure to give the notice [to the attorney general]

required by [§] 806.04(11) is fatal to the jurisdiction of the court.” *Id.* (alterations in original) (citation omitted). Ultimately, applying Wis. Stat. § 806.04(11), the court held that “[b]ecause the attorney general was never served and afforded an opportunity to be heard, the circuit court was without competency to hear the matter and appropriately dismissed it.” *Id.* ¶ 14; *see also id.* ¶ 10.

B. Plaintiffs failed to serve the required legislative officers, resulting in this Court lacking competency.

Here, as in *S.R.*, this Court lacks competency to proceed because Plaintiffs did not serve the speaker of the assembly, the president of the senate, or the senate majority leader with a copy of their proceeding. The rule applies because Plaintiffs’ amended complaint seeks a declaration “that Wisconsin’s public defense system is unconstitutional as to Plaintiffs and the Class.” (Doc. 48:11–12 ¶ 30.b.; *see also* 48:3 ¶ 4, 36 ¶ d. (relief requested).) Wisconsin’s public-defense system is governed by chapter 977 of the Wisconsin statutes, in particular Wis. Stat. §§ 977.05 through 977.08, which address, in part, the public defender’s duties and the appointment of counsel.

Plaintiffs have not filed proof of service of their proceeding on the required legislative officers, as Wis. Stat. § 806.04(11) plainly requires. This Court should enter an order dismissing the case for this independent reason.

V. Governor Evers has no role in appointing counsel to indigent criminal defendants, so he should be dismissed.

Finally, Plaintiffs' allegations against Governor Evers fail to state a viable claim because he has nothing to do with when or how qualified indigent defendants receive appointed counsel. The amended complaint does not "plausibly suggest [Plaintiffs] are entitled to relief" against the Governor. *Data Key Partners*, 356 Wis. 2d 665, ¶ 31.

The State has not waived sovereign immunity for declaratory judgment actions except for "suits to enjoin state officers and state agencies from acting beyond their constitutional or jurisdictional authority." *PRN Assocs. LLC v. DOA*, 2009 WI 53, ¶ 45, 317 Wis. 2d 656, 766 N.W.2d 559 (citation omitted). Similarly, sovereign immunity applies to federal claims except where the court "commands a state official to do nothing more than refrain from violating federal law." *Va. Off. for Prot. & Advoc. v. Stewart*, 563 U.S. 247, 255 (2011). Here, the Governor has no role in appointing counsel to criminal defendants and therefore there is no plausible allegation that he is acting beyond his authority.

The amended complaint alleges the following specific to the Governor:

4. . . . The SPD's funding comes from the biennial budget bills passed by the Wisconsin Legislature and signed into law by the Governor.

. . . .

53. Defendant Anthony S. Evers is the Governor of Wisconsin. He is sued in his official capacity. As the Governor of Wisconsin, Defendant

Evers is responsible for, among other things, administering Wisconsin's public defense system.

....

77. . . . Once approved, the SPD Board must submit the proposed budget to the Governor.

78. After receiving the SPD's proposed budget, the Governor may modify it before incorporating it into the omnibus biennial budget bill, which is then submitted to the Legislature. Like any other bill the budget bill moves through the legislative process. If enacted the Governor may sign it into law or veto it (in whole or in part). The SPD's funding for 2021–2023 is codified at chapter 20 of the Wisconsin Statutes.

79. Although the State Public Defender and the SPD Board are primarily responsible for administering Wisconsin's public defense system, the Governor may modify and must submit the SPD's budget to the Legislature. Furthermore, the Governor is ultimately responsible for ensuring that Wisconsin carries out its constitutional duties. Article 5, Section I of the Wisconsin Constitution provides that the "executive power" of the State of Wisconsin "shall be vested in a governor." As the Wisconsin Supreme Court has explained, "Executive power is power to execute or enforce the law" In exercising this power, the Governor "shall take care that the laws be faithfully executed." Accordingly, the Governor bears ultimate responsibility for ensuring that qualified defendants timely receive appointed counsel.

(Doc. 48:3, 18, 23, 24 ¶¶ 4, 53, 77–79 (footnotes omitted).) Importantly, legal conclusions regarding the Governor's authority are not accepted as true. *Data Key Partners*, 356 Wis. 2d 665, ¶ 19. The amended complaint alleges that the Governor appointed the individual SPD Board members, who are Defendants. (Doc. 48:18–20 ¶¶ 55–63.) It also alleges that the Brown County Board of Supervisors "passed a resolution calling on the Governor and Legislature to take action. They did not." (Doc. 48:4 ¶ 7.)

These allegations are insufficient to establish that Governor Evers has any role in SPD's appointing counsel to qualified indigent defendants. SPD appoints counsel to qualified indigent defendants, not the Governor. Wis. Stat. § 977.08. And his general role in executing the State's constitutional obligations is not enough to state a claim against him. The Eastern District of Wisconsin held that the Governor is immune from suit in a case challenging the constitutionality of a statute because he had no connection with the law beyond his general constitutional duty to enforce the laws. *See Deida v. City of Milwaukee*, 192 F. Supp. 2d 899, 917 (E.D. Wis. 2002). Under Plaintiffs' theory, the Governor would be a party to any action challenging the execution of a state law. That is not the law.

Because Plaintiffs' allegations fail to establish that the Governor's actions cause them any injury, he should be dismissed for this independent reason.

CONCLUSION

The Court should grant this motion and dismiss the amended complaint with prejudice.

Dated this 30th day of January 2023.

Respectfully submitted,

JOSHUA L. KAUL
Attorney General of Wisconsin

Electronically signed by:

Clayton P. Kawski
CLAYTON P. KAWSKI
Assistant Attorney General
State Bar #1066228

JONATHAN J. WHITNEY
Assistant Attorney General
State Bar #1128444

Attorneys for Defendants

Wisconsin Department of Justice
Post Office Box 7857
Madison, Wisconsin 53707-7857
(608) 266-8549 (Kawski)
(608) 266-1001 (Whitney)
(608) 294-2907 (Fax)
kawskicp@doj.state.wi.us
whitneyjj@doj.state.wi.us

CERTIFICATE OF SERVICE

I certify that in compliance with Wis. Stat. § 801.18(6), I electronically filed a Brief in Support of Motion to Dismiss Amended Complaint and Exhibit A with the clerk of court using the Wisconsin Circuit Court Electronic Filing System, which will accomplish electronic notice and service for all participants who are registered users.

Dated this 30th day of January 2023.

Electronically signed by:

Clayton P. Kawski

CLAYTON P. KAWSKI

FILED
01-18-2023
Clerk of Circuit Court
Brown County, WI
2022CF001002

STATE OF WISCONSIN

Plaintiff,

v.

Sebastian M Popovich

Defendant.

Case No. 22CF1002

STATE PUBLIC DEFENDER - ORDER APPOINTING COUNSEL

Name: Sebastian M Popovich **SPD Case No:** 23P-05-H-S00165

DOC #: **Incarcerated:**

Date of Birth: 1/25/1991

Nature of Case: Description:
940.02(2)(a) 1st Reckless Homicide/Deliver Drugs 1 Cnts:
Charge Modifier

Next Court Appearance:

Judge: Marc Hammer

| <u>Hearing Date</u> | <u>Hearing Time</u> | <u>Hearing Info</u> | <u>Comments</u> |
|---------------------|---------------------|---------------------|-----------------|
| 06/24/2022 | 9:30AM | Preliminary Hearing | |
| 07/08/2022 | 8:30AM | Status | |
| 07/18/2022 | 10:30AM | Preliminary Hearing | |

Facility:

Prior Attorney:

In accordance with Chapter 977 of the Wisconsin statutes, I hereby appoint the following attorney to represent the above named individual in relation to the above entitled proceedings:

Attorney Name: Christopher Froelich
Address: 125 S Quincy St
Green Bay, WI 54301 4019

State Bar No: 1000834
Attorney Telephone: (920) 430 9640
Attorney Fax Number:
Date Appointed: 1/18/2023
Supervisor ID: 1022068
SPD Office Phone: (920) 448 5433
SPD Office Address: 139 S. Washington St.
Green Bay, WI 54301 4207

Attorney Email Address: chris@froelichlawoffices.com

Appointed By: Jeffrey Cano

SPD Office Handling: Green Bay

Dated: 1/18/2023

Date OAC Printed: 1/18/2023

FILED
12-22-2022
Clerk of Circuit Court
Brown County, WI
2021CF001371

STATE OF WISCONSIN

Plaintiff,

v.

Melinda L Meshigaud

Defendant.

Case No. 21CF1371

STATE PUBLIC DEFENDER - ORDER APPOINTING COUNSEL

Name: Melinda L Meshigaud **SPD Case No:** 22P-05-F-C04520

DOC #: **Incarcerated:**

Date of Birth: 11/19/1984

Nature of Case: **Description:**

- 961.41-P Drug Offenses-Possession 1 Cnts:
Charge Modifier
- 961.573 Possess Drug Paraphernalia 1 Cnts:
Charge Modifier 939.05 Party to crime

Next Court Appearance:

Judge: Timothy Hinkfuss

| <u>Hearing Date</u> | <u>Hearing Time</u> | <u>Hearing Info</u> | <u>Comments</u> |
|---------------------|---------------------|----------------------|-----------------|
| 08/19/2021 | 9:30 am | Preliminary Hearing | |
| 10/12/2021 | 9:00AM | Preliminary Hearing | |
| 01/11/2022 | 8:30AM | Bench Warrant Return | |

Facility:

Prior Attorney:

In accordance with Chapter 977 of the Wisconsin statutes, I hereby appoint the following attorney to represent the above named individual in relation to the above entitled proceedings:

| | |
|--|--|
| Attorney Name: Kayla Taggart | State Bar No: 1122559 |
| Address: 1650 Midway Road Menasha, WI 54952 1228 | Attorney Telephone: (920) 739 9900 |
| Attorney Email Address: manager@pdlawoffice.com | Attorney Fax Number: |
| Appointed By: Jeffrey Cano | Date Appointed: 12/20/2022 |
| SPD Office Handling: Green Bay | Supervisor ID: 1022068 |
| Dated: 12/22/2022 | SPD Office Phone: (920) 448 5433 |
| Date OAC Printed: 12/22/2022 | SPD Office Address: 139 S. Washington St. Green Bay, WI 54301 4207 |

STATE OF WISCONSIN

CIRCUIT COURT BRANCH

COUNTY

Branch 7

Brown

FILED
12-22-2022
Clerk of Circuit Court
Brown County, WI
2021CF001372

STATE OF WISCONSIN

Plaintiff,

v.

Case No. 21CF1372

Melinda L Meshigaud

Defendant.

STATE PUBLIC DEFENDER - ORDER APPOINTING COUNSEL

Name: Melinda L Meshigaud

SPD Case No: 22P-05-F-C04521

DOC #:

Incarcerated:

Date of Birth: 11/19/1984

Nature of Case:

Description:

943.50 Retail Theft 1 Cnts:
Charge Modifier

946.49 Bail Jumping 1 Cnts:
Charge Modifier

Next Court Appearance:

Judge: Timothy Hinkfuss

| <u>Hearing Date</u> | <u>Hearing Time</u> | <u>Hearing Info</u> | <u>Comments</u> |
|---------------------|---------------------|----------------------|-----------------|
| 08/19/2021 | 9:30 am | Preliminary Hearing | |
| 10/12/2021 | 9:00AM | Preliminary Hearing | |
| 01/11/2022 | 8:30AM | Bench Warrant Return | |

Facility:

Prior Attorney:

In accordance with Chapter 977 of the Wisconsin statutes, I hereby appoint the following attorney to represent the above named individual in relation to the above entitled proceedings:

Attorney Name: Kayla Taggart

State Bar No: 1122559

Address: 1650 Midway Road
Menasha, WI 54952 1228

Attorney Telephone: (920) 739 9900

Attorney Fax Number:

Date Appointed: 12/20/2022

Attorney Email Address: manager@pdlawoffice.com

Appointed By: Jeffrey Cano

Supervisor ID: 1022068

SPD Office Handling: Green Bay

SPD Office Phone: (920) 448 5433

Dated: 12/22/2022

SPD Office Address: 139 S. Washington St.

Date OAC Printed: 12/22/2022

Green Bay, WI 54301 4207

FILED
12-21-2022
Clerk of Circuit Court
Brown County, WI
2022CF001786

BY THE COURT:

DATE SIGNED: December 21, 2022

Electronically signed by Kendall Kelley
Circuit Court Judge

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH IV

BROWN COUNTY

STATE OF WISCONSIN,

Plaintiff,

**NOTICE OF APPOINTMENT
OF COUNSEL**

vs.

ELMORE ANDERSON III,

Case No.: 22CF1786

Defendant.

TO: Elmore Anderson III
c/o Brown Co. Jail
3030 Curry Lane
Green Bay, WI 54311

ATTORNEY: William Reabe
130 E. Walnut St. Floor 7
Green Bay, WI 54301
920-360-9906

The above-named attorney has been appointed to represent you in this matter. You must contact him immediately so your case can proceed as scheduled. If you fail to contact your attorney, the Court may take your failure to do so as a waiver of your right to have a court-appointed attorney.

The defendant qualified for representation under Wisconsin State Public Defender rules, but the State Public Defender's office has not been able to timely appoint counsel. Therefore, this Court appointed counsel through the County. There is no cost to the defendant.

Copies mailed to:
Elmore Anderson III
Attorney William Reabe (via e-file)

STATE OF WISCONSIN

CIRCUIT COURT BRANCH

COUNTY

Circuit Court BR. 46, Rm 113

Milwaukee

FILED

01-05-2023

Anna Maria Hodges

Clerk of Circuit Court

2022CF004377

STATE OF WISCONSIN

Plaintiff,

v.

Cashun Drake

Defendant.

Case No. 22CF004377

STATE PUBLIC DEFENDER - ORDER APPOINTING COUNSEL

Name: Cashun Drake

SPD Case No: 23P-40-B-T00041

DOC #:

Incarcerated:

Date of Birth: 1/5/2005

Nature of Case:

Description:

- 940.3 False Imprisonment 1 Cnts:
 - Charge Modifier 939.05 Party to crime
- 940.3 False Imprisonment 1 Cnts:
 - Charge Modifier 939.63(1)(b) Use Dangerous Weapon (Felony 5+ Yrs)
- 940.30 False imprisonment 1 Cnts:
 - Charge Modifier 939.05 Party to crime
- 940.30 False imprisonment 1 Cnts:
 - Charge Modifier 939.63(1)(b) Use Dangerous Weapon (Felony 5+ Yrs)
- 943.23(1g) Operate w/o Consent - Possess Weapon FAB/MA 1 Cnts:

Next Court Appearance: Charge Modifier 939.05 Party to crime

Judge: David Feiss

Additional Charges Exist!

| Hearing Date | Hearing Time | Hearing Info | Comments |
|--------------|--------------|---------------------|-----------------------------------|
| 11/18/2022 | 8:30 am | Preliminary Hearing | |
| 12/19/2022 | 08:30AM | Status | Court Commissioner Barry Phillips |

Facility: 821 W. State Street

Prior Attorney:

In accordance with Chapter 977 of the Wisconsin statutes, I hereby appoint the following attorney to represent the above named individual in relation to the above entitled proceedings:

Attorney Name: Jorge Fragoso

State Bar No: 1089114

Address: 330 E. Kilbourn Avenue, Ste 1170 Milwaukee, WI 53202

Attorney Telephone: (414) 271 1440

Attorney Fax Number:

Attorney Email Address: jfragoso@grgblaw.com

Date Appointed: 1/5/2023

Appointed By: Thomas Reed

Supervisor ID: 1005694

SPD Office Handling: Milwaukee

SPD Office Phone: (414) 227 4130

Dated: 1/5/2023

SPD Office Address: 819 N 6TH ST RM 908

Date OAC Printed: 1/5/2023

Milwaukee, WI 53203 1606

Circuit Court BR. 46, Rm 113

COUNTY

Milwaukee

STATE OF WISCONSIN

Plaintiff,

v.

Cashun Drake

Defendant.

Case No. 22CF004377

STATE PUBLIC DEFENDER - ORDER APPOINTING COUNSEL

Name: Cashun Drake **SPD Case No:** 23P-40-B-T00041

DOC #: **Incarcerated:**

Date of Birth: 1/5/2005

Nature of Case: **Description:**

- 940.3 False Imprisonment 1 Cnts:
Charge Modifier 939.05 Party to crime
- 940.3 False Imprisonment 1 Cnts:
Charge Modifier 939.63(1)(b) Use Dangerous Weapon (Felony 5+ Yrs)
- 940.30 False imprisonment 1 Cnts:
Charge Modifier 939.05 Party to crime
- 940.30 False imprisonment 1 Cnts:
Charge Modifier 939.63(1)(b) Use Dangerous Weapon (Felony 5+ Yrs)
- 943.23(1g) Operate w/o Consent - Possess Weapon FAB/MA 1 Cnts:

Next Court Appearance: Charge Modifier 939.05 Party to crime

Judge: David Feiss

Additional Charges Exist!

| <u>Hearing Date</u> | <u>Hearing Time</u> | <u>Hearing Info</u> | <u>Comments</u> | |
|---------------------|---------------------|---------------------|-----------------------------------|-------------------------------|
| 11/18/2022 | 8:30 am | Preliminary Hearing | | Facility: 821 W. State Street |
| 12/19/2022 | 08:30AM | Status | Court Commissioner Barry Phillips | |

Prior Attorney:

In accordance with Chapter 977 of the Wisconsin statutes, I hereby appoint the following attorney to represent the above named individual in relation to the above entitled proceedings:

Attorney Name: Zachary Wroblewski

State Bar No: 1119194

Address: 330 E. Kilbourn Ave, Ste 1170
Milwaukee, WI 53202

Attorney Telephone: (414) 271 1440

Attorney Fax Number:

Attorney Email Address: zwroblewski@grgblaw.com

Date Appointed: 1/5/2023

Appointed By: Thomas Reed

Supervisor ID: 1005694

SPD Office Handling: Milwaukee

SPD Office Phone: (414) 227 4130

Dated: 1/5/2023

SPD Office Address: 819 N 6TH ST RM 908

Date OAC Printed: 1/5/2023

Milwaukee, WI 53203 1606

FILED
12-20-2022
George L. Christenson
Clerk of Circuit Court
2022CF004224

BY THE COURT:

DATE SIGNED: December 20, 2022

Electronically signed by the Hon. Mark A. Sanders
Circuit Court Judge

STATE OF WISCONSIN, CIRCUIT COURT, MILWAUKEE COUNTY, CRIMINAL DIVISION

For Official Use

STATE OF WISCONSIN,
v.

Order Appointing Attorney at
County Expense

TERRY TERRELL JOHNSON, Defendant Case No. 22CF04224
Name

THE COURT FINDS:

1. The defendant has petitioned the court for the appointment of an attorney.
2. The defendant does not qualify for representation by the State Public Defender.
3. The defendant's accessible income and assets are insufficient to hire an attorney at prevailing rates.
4. The defendant is indigent.
5. It is in the interest of Milwaukee County to have this matter resolved before such time as the defendant might be able to save the funds necessary to hire an attorney.
- 6. In order to provide the defendant with a competent attorney in a case of this nature with penalties of the kind faced by this defendant, the court must pay a fee higher than the \$100.00 per hour base fee authorized by the Chief Judge.
7. Because no competent attorney who will accept a fee of \$100.00 per hour is available to represent the defendant, the court must pay the fee of \$_____ per hour.
8. The defendant agrees to repay Milwaukee County for the fees and expenses paid by Milwaukee County.
9. The defendant agrees to a wage assignment (attached).

IT IS ORDERED:

1. The defendant's petition for the appointment of an attorney is granted.
2. The court appoints the following attorney to represent the defendant:

Name: ATTORNEY SCOTT ANDERSON Telephone Number: (414) 271-6040
Address: 207 EAST BUFFALO - SUITE 514, MILWAUKEE, WI 53202

3. The reasonable fees and expenses of the attorney shall be paid by Milwaukee County.
4. Before the final fee and expenses are approved by the court, the defendant shall be given notice by mail at the address he or she gives the attorney. The defendant shall have an opportunity to review the fee and expenses and object, if the fee and/or expenses are unreasonable.
5. The attorney shall be paid at the rate of \$100.00/hour excluding travel and \$25/hour for travel exceeding 30 miles.
- X 6. The attorney shall be paid at the rate of \$ 125.00 /hour excluding travel and \$25/hour for travel exceeding 30 miles
7. The defendant is required to reimburse Milwaukee County on the following terms:
The defendant shall pay \$_____ on or before the first day of every month until all fees and expenses are paid. The first payment shall be made on (date) _____. Payments shall be made to the Clerk of Circuit Court, Room 117, 821 W. State St., Milwaukee, WI, 53233.
Other: _____

Further, if the defendant fails to comply with this order to reimburse Milwaukee County, the Clerk of Circuit Court may refer the debt for collection and intercept the defendant's tax refund, and a civil judgment shall be awarded to the Clerk of Circuit Court for the amount of unpaid fees and expenses, pursuant to Wis. Stat. § 973.06(1)(e).

- 8. The defendant is not required to reimburse Milwaukee County.

Dated this 20 day of DECEMBER, 2022.

By _____
CIRCUIT COURT JUDGE

STATE OF WISCONSIN

CIRCUIT COURT BRANCH

COUNTY

Circuit Court BR. 15, Rm 623

Milwaukee

FILED

01-13-2023

Anna Maria Hodges

Clerk of Circuit Court

2022CM001235

STATE OF WISCONSIN

Plaintiff,

v.

Terry T Johnson

Defendant.

Case No. 22CM001235

STATE PUBLIC DEFENDER - ORDER APPOINTING COUNSEL

Name: Terry T Johnson

SPD Case No: 23P-40-M-T00343

DOC #:

Incarcerated: CJF

Date of Birth: 11/4/1974

Nature of Case:

Description:

943.50(1m)(b) Retail Theft-Intent. Take (< = \$1000) 1 Cnts: Charge Modifier

Next Court Appearance:

Judge: J.D. Watts

| Hearing Date | Hearing Time | Hearing Info | Comments |
|--------------|--------------|--------------|--------------|
| 12/05/2022 | 8:30AM | Pretrial | |
| 01/04/2023 | 01:30PM | Status | ZOOM HEARING |

Facility: 901 N. 9th Street

Prior Attorney:

In accordance with Chapter 977 of the Wisconsin statutes, I hereby appoint the following attorney to represent the above named individual in relation to the above entitled proceedings:

Attorney Name: Scott Anderson

State Bar No: 1013911

Address: 207 E Buffalo St Ste 514 Milwaukee, WI 53202 5712

Attorney Telephone: (414) 271 6040

Attorney Fax Number:

Attorney Email Address: orleansblackdog@yahoo.com

Date Appointed: 1/13/2023

Appointed By: Thomas Reed

Supervisor ID: 1005694

SPD Office Handling: Milwaukee

SPD Office Phone: (414) 227 4130

Dated: 1/13/2023

SPD Office Address: 819 N 6TH ST RM 908

Date OAC Printed: 1/13/2023

Milwaukee, WI 53203 1606

STATE OF WISCONSIN

CIRCUIT COURT BRANCH

COUNTY

Circuit Court BR. 02, Rm 635

Milwaukee

FILED

01-11-2023

Anna Maria Hodges

Clerk of Circuit Court

2022CF004265

STATE OF WISCONSIN

Plaintiff,

v.

Timothy Williams

Defendant.

Case No. 22CF004265

STATE PUBLIC DEFENDER - ORDER APPOINTING COUNSEL

Name: Timothy Williams

SPD Case No: 22P-40-F-T08357

DOC #: 355574

Incarcerated: CJF

Date of Birth: 11/16/1983

Nature of Case: Description: 940.19(2) Substantial Battery - Intend Bodily Harm 1 Cnts: Charge Modifier 939.63 Weapon enhancer

Next Court Appearance:

Judge: Milton Childs

Table with columns: Hearing Date, Hearing Time, Hearing Info, Comments

Facility: 901 N. 9th Street

Table with 4 columns: Hearing Date, Hearing Time, Hearing Info, Comments

Prior Attorney: John Glover State Bar ID: 1017624

In accordance with Chapter 977 of the Wisconsin statutes, I hereby appoint the following attorney to represent the above named individual in relation to the above entitled proceedings:

Attorney Name: Joseph Bastien

State Bar No: 1101114

Address: 1746 S. Muskego Avenue Milwaukee, WI 53204

Attorney Telephone: (414) 383 6700

Attorney Fax Number:

Attorney Email Address: admin@gaminolawoffices.com

Date Appointed: 1/11/2023

Appointed By: Thomas Reed

Supervisor ID: 1005694

SPD Office Handling: Milwaukee

SPD Office Phone: (414) 227 4130

Dated: 11/17/2022

SPD Office Address: 819 N 6TH ST RM 908

Date OAC Printed: 1/11/2023

Milwaukee, WI 53203 1606

Circuit Court BR. 9, Rm 632

COUNTY
Milwaukee

FILED
01-11-2023
Anna Maria Hodges
Clerk of Circuit Court
2022CF004449

STATE OF WISCONSIN

Plaintiff,

v.

Timothy Williams

Defendant.

Case No. 22CF004449

STATE PUBLIC DEFENDER - ORDER APPOINTING COUNSEL

Name: Timothy Williams

SPD Case No: 22P-40-F-T08356

DOC #: 355574

Incarcerated: ejf

Date of Birth: 11/16/1983

Nature of Case: Description:
961.41(3g)(c) Possession of Cocaine/Coca 1 Cnts:
Charge Modifier

Next Court Appearance:

Judge: Paul Van Grunsven

| <u>Hearing Date</u> | <u>Hearing Time</u> | <u>Hearing Info</u> | <u>Comments</u> |
|---------------------|---------------------|---------------------|-----------------|
| 11/22/2022 | 8:30 AM | Preliminary Hearing | |
| 12/29/2022 | 8:30 | Status | |
| 01/17/2023 | 01:30PM | Hearing | |

Facility: 901 N. 9th Street

Prior Attorney: John Glover State Bar ID: 1017624

In accordance with Chapter 977 of the Wisconsin statutes, I hereby appoint the following attorney to represent the above named individual in relation to the above entitled proceedings:

Attorney Name: Joseph Bastien

State Bar No: 1101114

Address: 1746 S. Muskego Avenue
Milwaukee, WI 53204

Attorney Telephone: (414) 383 6700

Attorney Fax Number:

Attorney Email Address: admin@gaminolawoffices.com

Date Appointed: 1/11/2023

Appointed By: Thomas Reed

Supervisor ID: 1005694

SPD Office Handling: Milwaukee

SPD Office Phone: (414) 227 4130

Dated: 11/17/2022

SPD Office Address: 819 N 6TH ST RM 908

Date OAC Printed: 1/11/2023

Milwaukee, WI 53203 1606

STATE OF WISCONSIN

CIRCUIT COURT BRANCH

COUNTY

Circuit Court BR. 3

Manitowoc

FILED

12-22-2022

Clerk of Circuit Court

Manitowoc County, WI

2022CF000628

STATE OF WISCONSIN

Plaintiff,

v.

William M Lowe

Defendant.

Case No. 22CF628

STATE PUBLIC DEFENDER - ORDER APPOINTING COUNSEL

Name: William M Lowe

SPD Case No: 22P-36-F-V01931

DOC #:

Incarcerated:

Date of Birth: 2/26/2001

Nature of Case:

Description:

- 940.203(2) Battery or Threat to Judge 1 Cnts:
 - Charge Modifier 939.62(1)(b) Habitual Criminality (Prison <= 10 yrs)
- 946.49(1)(a) Bail Jumping - Misdemeanor 1 Cnts:
 - Charge Modifier 939.62(1)(a) Habitual Criminality (Prison <= 1 yr)
- 941.375(2) Throwing or discharging bodily fluids at public safety worker 1 Cnts:
 - Charge Modifier 939.62(1)(b) Habitual Criminality (Prison <= 10 yrs)

Next Court Appearance:

Judge: Robert Dewane

| <u>Hearing Date</u> | <u>Hearing Time</u> | <u>Hearing Info</u> | <u>Comments</u> |
|---------------------|---------------------|---------------------|-----------------|
| 01/04/2023 | 10:30 a.m. | Preliminary Hearing | |

Facility: Manitowoc County Courthouse Br 3

Prior Attorney:

In accordance with Chapter 977 of the Wisconsin statutes, I hereby appoint the following attorney to represent the above named individual in relation to the above entitled proceedings:

Attorney Name: Raj Singh
Address: PO Box 145
 Fredonia, WI 53021 0145

State Bar No: 1035265
Attorney Telephone: (414) 708 4804
Attorney Fax Number:

Attorney Email Address: rksingh@wi.rr.com

Date Appointed: 12/22/2022

Appointed By: Ann Larson

Supervisor ID: 1001235

SPD Office Handling: Manitowoc

SPD Office Phone: (920) 683 4690

Dated: 12/22/2022

SPD Office Address: 927 S. 8th Street, Suite 304
Manitowoc, WI 54220 4534

Date OAC Printed: 12/22/2022

STATE OF WISCONSIN

CIRCUIT COURT BRANCH

COUNTY

Circuit Court BR. 3

Manitowoc

FILED

12-22-2022

Clerk of Circuit Court

Manitowoc County, WI

2022CM000451

STATE OF WISCONSIN

Plaintiff,

v.

Case No. 22CM451

William M Lowe

Defendant.

STATE PUBLIC DEFENDER - ORDER APPOINTING COUNSEL

Name: William M Lowe SPD Case No: 22P-36-M-V01930

DOC #: Incarcerated:

Date of Birth: 2/26/2001

Nature of Case: Description: 946.41(1) Resisting or Obstructing An Officer 1 Cnts: Charge Modifier 939.62(1)(a) Habitual Criminality (Prison <= 1 yr)

Next Court Appearance:

Judge: Robert Dewane

Table with 4 columns: Hearing Date, Hearing Time, Hearing Info, Comments. Row 1: 01/04/2023, 10:30 a.m., Status,

Facility: Manitowoc County Courthouse Br 3

Prior Attorney:

In accordance with Chapter 977 of the Wisconsin statutes, I hereby appoint the following attorney to represent the above named individual in relation to the above entitled proceedings:

Attorney Name: Raj Singh Address: PO Box 145 Fredonia, WI 53021 0145

State Bar No: 1035265 Attorney Telephone: (414) 708 4804 Attorney Fax Number:

Attorney Email Address: rksingh@wi.rr.com

Date Appointed: 12/22/2022

Appointed By: Ann Larson

Supervisor ID: 1001235

SPD Office Handling: Manitowoc

SPD Office Phone: (920) 683 4690

Dated: 12/22/2022

SPD Office Address: 927 S. 8th Street, Suite 304 Manitowoc, WI 54220 4534

Date OAC Printed: 12/22/2022

STATE OF WISCONSIN

CIRCUIT COURT BRANCH

COUNTY

Circuit Court BR. 3

Manitowoc

**FILED
12-22-2022
Clerk of Circuit Court
Manitowoc County, WI
2022CM000604**

STATE OF WISCONSIN

Plaintiff,

v.

William M Lowe

Defendant.

Case No. 22CM604

STATE PUBLIC DEFENDER - ORDER APPOINTING COUNSEL

Name: William M Lowe **SPD Case No:** 22P-36-M-V01929

DOC #: **Incarcerated:**

Date of Birth: 2/26/2001

| | |
|---------------------------------------|---------------------------------------|
| Nature of Case: | Description: |
| 943.01(1) Criminal Damage to Property | 1 Cnts: |
| Charge Modifier 939.62(1)(a) | Habitual Criminality (Prison <= 1 yr) |
| 947.01(1) Disorderly Conduct | 1 Cnts: |
| Charge Modifier 939.62(1)(a) | Habitual Criminality (Prison <= 1 yr) |

Next Court Appearance:

Judge: Robert Dewane

| <u>Hearing Date</u> | <u>Hearing Time</u> | <u>Hearing Info</u> | <u>Comments</u> |
|---------------------|---------------------|---------------------|-----------------------------------|
| 01/20/2023 | No time | Further Proceedings | Offer Deadline-No need to appear. |

Facility: Manitowoc County
Courthouse Br 3

Prior Attorney:

In accordance with Chapter 977 of the Wisconsin statutes, I hereby appoint the following attorney to represent the above named individual in relation to the above entitled proceedings:

| | |
|--|---|
| Attorney Name: Raj Singh | State Bar No: 1035265 |
| Address: PO Box 145 Fredonia, WI 53021 0145 | Attorney Telephone: (414) 708 4804 |
| Attorney Email Address: rksingh@wi.rr.com | Attorney Fax Number: |
| Appointed By: Ann Larson | Date Appointed: 12/22/2022 |
| SPD Office Handling: Manitowoc | Supervisor ID: 1001235 |
| Dated: 12/22/2022 | SPD Office Phone: (920) 683 4690 |
| Date OAC Printed: 12/22/2022 | SPD Office Address: 927 S. 8th Street, Suite 304 Manitowoc, WI 54220 4534 |

STATE OF WISCONSIN

CIRCUIT COURT BRANCH

COUNTY

Circuit Court Br. 1

Manitowoc

FILED

01-05-2023

Clerk of Circuit Court
Manitowoc County, WI
2022CF000685

STATE OF WISCONSIN

Plaintiff,

v.

Tivon D Wells

Defendant.

Case No. 22CF685

STATE PUBLIC DEFENDER - ORDER APPOINTING COUNSEL

Name: Tivon D Wells

SPD Case No: 23P-36-F-W00015

DOC #:

Incarcerated:

Date of Birth: 6/19/1997

Nature of Case:

Description:

- 943.23(4m) Operate Vehicle w/o Consent - Passenger 1 Cnts:
Charge Modifier 939.62(1)(a) Habitual Criminality (Prison <= 1 yr)
- 946.49(1)(a) Bail Jumping - Misdemeanor 1 Cnts:
Charge Modifier 939.62(1)(a) Habitual Criminality (Prison <= 1 yr)
- 946.49(1)(b) Bail Jumping - Felony 1 Cnts:
Charge Modifier 939.62(1)(b) Habitual Criminality (Prison <= 10 yrs)

Next Court Appearance:

Judge: Mark Rohrer

| Hearing Date | Hearing Time | Hearing Info | Comments |
|--------------|--------------|---------------------|----------|
| 01/11/2023 | 1:30 p.m. | Preliminary Hearing | |

Facility:

Prior Attorney:

In accordance with Chapter 977 of the Wisconsin statutes, I hereby appoint the following attorney to represent the above named individual in relation to the above entitled proceedings:

Attorney Name: Erik Eisenheim

State Bar No: 1099045

Address: 430 Ahnaip Street
Menasha, WI 54952

Attorney Telephone: (920) 238 6473

Attorney Fax Number:

Attorney Email Address: attorney.erik.eisenheim@zhengenheim.org

Date Appointed: 1/5/2023

Appointed By: Ann Larson

Supervisor ID: 1001235

SPD Office Handling: Manitowoc

SPD Office Phone: (920) 683 4690

Dated: 1/5/2023

SPD Office Address: 927 S. 8th Street, Suite 304
Manitowoc, WI 54220 4534

Date OAC Printed: 1/5/2023

FILED
01-04-2023
Clerk of Circuit Court
Brown County, WI
2022CF001544

STATE OF WISCONSIN CIRCUIT COURT BRANCH COUNTY

Branch 7 Brown

STATE OF WISCONSIN

Plaintiff,

v.

Davadae D Bobbitt

Defendant.

Case No. 22CF1544

STATE PUBLIC DEFENDER - ORDER APPOINTING COUNSEL

Name: Davadae D Bobbitt **SPD Case No:** 23P-05-B-L00011

DOC #: **Incarcerated:**

Date of Birth: 3/15/1968

Nature of Case: **Description:**
 940.19(1) Battery 1 Cnts:
 Charge Modifier 939.62 Repeat offender enhancer
 940.225(2)(a) 2nd Degree Sexual Assault/Use of Force 1 Cnts:
 Charge Modifier 939.62 Repeat offender enhancer
 943.01(1) Criminal Damage to Property 1 Cnts:
 Charge Modifier 939.62 Repeat offender enhancer
 947.01(1) Disorderly Conduct 1 Cnts:
 Charge Modifier 939.62 Repeat offender enhancer

Next Court Appearance:

Judge: Timothy Hinkfuss

| <u>Hearing Date</u> | <u>Hearing Time</u> | <u>Hearing Info</u> | <u>Comments</u> |
|---------------------|---------------------|---------------------|-----------------|
| 01/10/2023 | 1:45 | Status | |

Facility:

Prior Attorney:

In accordance with Chapter 977 of the Wisconsin statutes, I hereby appoint the following attorney to represent the above named individual in relation to the above entitled proceedings:

| | |
|--|--|
| Attorney Name: Brian Stevens | State Bar No: 1024958 |
| Address: 1600 Shawano Ave # 212 Green Bay, WI 54303 3246 | Attorney Telephone: (920) 544 2000 |
| Attorney Email Address: btstevensq@gmail.com | Attorney Fax Number: |
| Appointed By: Jeffrey Cano | Date Appointed: 1/4/2023 |
| SPD Office Handling: Green Bay | Supervisor ID: 1022068 |
| Dated: 1/4/2023 | SPD Office Phone: (920) 448 5433 |
| Date OAC Printed: 1/4/2023 | SPD Office Address: 139 S. Washington St. Green Bay, WI 54301 4207 |

STATE OF WISCONSIN

CIRCUIT COURT BRANCH

COUNTY

Langlade County Courthouse

Langlade

FILED

12-21-2022

Clerk of Circuit Court

Langlade County, WI

2022CF000188

STATE OF WISCONSIN

Plaintiff,

v.

Donald C Jueck Jr

Defendant.

Case No. 22CF188

STATE PUBLIC DEFENDER - ORDER APPOINTING COUNSEL

Name: Donald C Jueck Jr

SPD Case No: 22S-34-F-H00495

DOC #:

Incarcerated:

Date of Birth: 10/23/1988

Nature of Case:

Description:

- 940.19(2) Substantial Battery - Intend Bodily Harm 1 Cnts:
Charge Modifier 939.62(1)(b) Habitual Criminality (Prison <= 10 yrs)
- 940.45(1) Intimidate Victim/Use or Attempt Force 1 Cnts:
Charge Modifier 939.62(1)(b) Habitual Criminality (Prison <= 10 yrs)
- 943.01(1) Criminal Damage to Property 1 Cnts:
Charge Modifier 939.62(1)(a) Habitual Criminality (Prison <= 1 yr)
- 947.01(1) Disorderly Conduct 1 Cnts:
Charge Modifier 939.62(1)(a) Habitual Criminality (Prison <= 1 yr)

Next Court Appearance:

Judge: John Rhode

| Hearing Date | Hearing Time | Hearing Info | Comments |
|--------------|--------------|---------------------------|----------|
| 1/23/2023 | 1:30 pm | Adjourned Initial Appear. | |

Facility:

Prior Attorney:

In accordance with Chapter 977 of the Wisconsin statutes, I hereby appoint the following attorney to represent the above named individual in relation to the above entitled proceedings:

Attorney Name: Jerome Babiak
Address: 100 S MILL ST
 STE 104
 Merrill, WI 54452 2736

State Bar No: 1117237
Attorney Telephone: (715) 804 1002
Attorney Fax Number:
Date Appointed: 12/21/2022

Attorney Email Address: babiakj@opd.wi.gov

Appointed By: Jessica Fehrenbach

Supervisor ID: 1070889

SPD Office Handling: Merrill

SPD Office Phone: (715) 536 9105

Dated: 12/21/2022

SPD Office Address: 100 S. Mill Street, Suite 104
Merrill, WI 54452 2508

Date OAC Printed: 12/21/2022

STATE OF WISCONSIN

CIRCUIT COURT BRANCH

COUNTY

Langlade County Courthouse

Langlade

FILED

12-21-2022

Clerk of Circuit Court

Langlade County, WI

2022CM000102

STATE OF WISCONSIN

Plaintiff,

v.

Donald C Jueck Jr

Defendant.

Case No. 22CM102

STATE PUBLIC DEFENDER - ORDER APPOINTING COUNSEL

Name: Donald C Jueck Jr

SPD Case No: 22S-34-M-H00496

DOC #:

Incarcerated:

Date of Birth: 10/23/1988

Nature of Case:

Description:

946.41(1) Resisting or Obstructing An Officer 1 Cnts: Charge Modifier 939.62(1)(a) Habitual Criminality (Prison <= 1 yr)

Next Court Appearance:

Judge: John Rhode

| <u>Hearing Date</u> | <u>Hearing Time</u> | <u>Hearing Info</u> | <u>Comments</u> |
|---------------------|---------------------|---------------------------|-----------------|
| 1/23/2023 | 1:30 pm | Adjourned Initial Appear. | |

Facility:

Prior Attorney:

In accordance with Chapter 977 of the Wisconsin statutes, I hereby appoint the following attorney to represent the above named individual in relation to the above entitled proceedings:

Attorney Name: Jerome Babiak
Address: 100 S MILL ST
STE 104
Merrill, WI 54452 2736

State Bar No: 1117237
Attorney Telephone: (715) 804 1002
Attorney Fax Number:
Date Appointed: 12/21/2022

Attorney Email Address: babiakj@opd.wi.gov

Appointed By: Jessica Fehrenbach

Supervisor ID: 1070889

SPD Office Handling: Merrill

SPD Office Phone: (715) 536 9105

Dated: 12/21/2022

SPD Office Address: 100 S. Mill Street, Suite 104
Merrill, WI 54452 2508

Date OAC Printed: 12/21/2022

STATE OF WISCONSIN

CIRCUIT COURT BRANCH

COUNTY

Langlade County Courthouse

Langlade

FILED

01-17-2023

Clerk of Circuit Court

Langlade County, WI

2022CF000159

STATE OF WISCONSIN

Plaintiff,

v.

Cory H Hansen

Defendant.

Case No. 22CF159

STATE PUBLIC DEFENDER - ORDER APPOINTING COUNSEL

Name: Cory H Hansen

SPD Case No: 23P-34-H-H00037

DOC #:

Incarcerated:

Date of Birth: 1/9/1992

Nature of Case:

Description:

- 346.67(1) Hit and Run FU/MU 1 Cnts:
Charge Modifier 939.62 Repeat offender enhancer
- 940.02(1) 1st Degree Reckless Homicide 1 Cnts:
Charge Modifier 939.62 Repeat offender enhancer
- 940.09(1)(a) Homicide by Intoxicated use of Vehicle or Firearm 1 Cnts:
Charge Modifier 939.62 Repeat offender enhancer
- 940.203(2) Battery or Threat to Judge 1 Cnts:
Charge Modifier 939.62 Repeat offender enhancer

Next Court Appearance:

Judge: John Rhode

| Hearing Date | Hearing Time | Hearing Info | Comments |
|--------------|--------------|-------------------------|----------|
| 1/23/2023 | 1:30 PM | Adj. Initial Appearance | |

Facility:

Prior Attorney:

In accordance with Chapter 977 of the Wisconsin statutes, I hereby appoint the following attorney to represent the above named individual in relation to the above entitled proceedings:

Attorney Name: Adam Raabe
Address: 1055 Main Street, Ste 201
 Stevens Point, WI 54481

State Bar No: 1089780
Attorney Telephone: (715) 570 2516
Attorney Fax Number:

Attorney Email Address: adamjraabe@gmail.com

Date Appointed: 1/17/2023

Appointed By: Jessica Fehrenbach

Supervisor ID: 1070889

SPD Office Handling: Merrill

SPD Office Phone: (715) 536 9105

Dated: 1/17/2023

SPD Office Address: 100 S. Mill Street, Suite 104
Merrill, WI 54452 2508

Date OAC Printed: 1/17/2023

STATE OF WISCONSIN

CIRCUIT COURT BRANCH

COUNTY

Langlade County Courthouse

Langlade

FILED

01-17-2023

Clerk of Circuit Court

Langlade County, WI

2022CF000159

STATE OF WISCONSIN

Plaintiff,

v.

Cory H Hansen

Defendant.

Case No. 22CF159

STATE PUBLIC DEFENDER - ORDER APPOINTING COUNSEL

Name: Cory H Hansen

SPD Case No: 23P-34-H-H00037

DOC #:

Incarcerated:

Date of Birth: 1/9/1992

Nature of Case:

Description:

- 346.67(1) Hit and Run FU/MU 1 Cnts:
Charge Modifier 939.62 Repeat offender enhancer
- 940.02(1) 1st Degree Reckless Homicide 1 Cnts:
Charge Modifier 939.62 Repeat offender enhancer
- 940.09(1)(a) Homicide by Intoxicated use of Vehicle or Firearm 1 Cnts:
Charge Modifier 939.62 Repeat offender enhancer
- 940.203(2) Battery or Threat to Judge 1 Cnts:
Charge Modifier 939.62 Repeat offender enhancer

Next Court Appearance:

Judge: John Rhode

| <u>Hearing Date</u> | <u>Hearing Time</u> | <u>Hearing Info</u> | <u>Comments</u> |
|---------------------|---------------------|---------------------|-----------------|
|---------------------|---------------------|---------------------|-----------------|

Facility:

| | | | |
|-----------|---------|---------------------------|--|
| 1/23/2023 | 1:30 PM | Adjourned Initial Appear. | |
|-----------|---------|---------------------------|--|

Prior Attorney:

In accordance with Chapter 977 of the Wisconsin statutes, I hereby appoint the following attorney to represent the above named individual in relation to the above entitled proceedings:

Attorney Name: Andrew Golden

State Bar No: 1065699

Address: 2266 N. Prospect Ave., Ste 312
Milwaukee, WI 53202

Attorney Telephone: (414) 755- 3419

Attorney Fax Number:

Date Appointed: 1/17/2023

Attorney Email Address: andrew@centralwilaw.org

Appointed By: Jessica Fehrenbach

Supervisor ID: 1070889

SPD Office Handling: Merrill

SPD Office Phone: (715) 536 9105

Dated: 1/17/2023

SPD Office Address: 100 S. Mill Street, Suite 104
Merrill, WI 54452 2508

Date OAC Printed: 1/17/2023