

STATE OF WISCONSIN

CIRCUIT COURT

OUTAGAMIE
COUNTY

For Official Use

STATE OF WISCONSIN,
Plaintiff,

v.

KENNETH A. HUDSON,
Defendant.

Case No. 20CF403

CLERK OF CIRCUIT COURT
OUTAGAMIE COUNTY FILED

AUG 15 2023

AT

O'CLOCK

**MOTION TO RECUSE BASED ON THE COURT VIOLATING THE DEFENDANT'S 5th AND
14th AMENDMENT RIGHTS TO THE UNITED STATES CONSTITUTION AND ARTICLE I
SECTIONS 7 AND 8 OF THE WISCONSIN CONSTITUTION**

The Defendant moves the Court to disqualify and recuse himself from the above matter. This Court has hidden information to the Defendant which if known to the Defendant at the time would have resulted in a substitution of Judge being filed. The Court intentionally had this matter assigned to him, without any request by any of the parties including the previously assigned Judge Rein. On information and belief, Judge Rein never asked to have this matter reassigned. Judge Rein had entered a ruling on this case before the Court took it upon himself to reassign the matter to himself. The Court failed to notify the Defendant of a relationship that the Court had with one of the witnesses who is accused of misconduct in this matter. The Court has repeatedly made statements which indicate that he is biased and has prejudged this matter. By being prejudiced, bias and having prejudged this matter, the Court has violated the Defendant's Due Process Rights under the 5th and 14th Amendment to the U.S. Constitution and Article 1, Sections 7 and 8 of the Wisconsin Constitution. Therefore, the Court has a duty to recuse himself and have the case sent back to Outagamie County Branch 4.

Wis. Stat. 971.20(2) indicates: "One substitution. In any criminal action, the defendant has a right to only one substitution of a judge...." Wis. Stat. 971.20(5) provides: "Substitution of trial judge subsequently assigned. If a new judge is assigned to the trial of an action and the defendant has not exercised the right to substitute an assigned judge, a written request for the substitution of the new judge may be filed with the clerk within 15 days of the clerk's giving actual notice or sending notice of the assignment to the defendant or the defendant's attorney. If the notification occurs within 20 days of the date set for trial, the request shall be filed within 48 hours of the clerk's giving actual notice or sending notice of the assignment. If the notification occurs within 48 hours of the trial or if there has been no notification, the defendant may make an oral or written request for substitution prior to the commencement of the proceedings."

Supreme Court Rule 60.01(7m) states: "Impartiality" means the absence of bias or prejudice in favor of, or against, particular parties, or classes of parties, as well as maintaining an open mind in considering issues that may come before the judge." A Judge must avoid impropriety and appearance of impropriety in all activities. Supreme Court Rule 60.03. During hearings in this case, Judge Morrison has shown a bias and prejudice against the Defendant and has indicated that he has prejudged this case.

Hudson has never exercised his right to substitution. The original trial Judge assigned to this case was the Honorable Harold V. Froehlich. Judge Froelich retired from the bench and the Honorable Gregory B. Gill, Jr. was appointed to Outagamie County Circuit Court Branch IV in September of 2011 and subsequently elected. Judge Gill was a former intern for the Outagamie County District Attorney's Office under District Attorney Biskupic. He later served as an Assistant District Attorney for Outagamie under District Attorney Carrie Schneider, who was the co-prosecutor on the Defendant's case. District Attorney Biskupic became a Judge in 2014 for Outagamie County Branch 6 and District Attorney Schneider became a Judge in 2017.

In June of 2018, the Defendant moved for Judge Gill to remove himself on the case. Judge Gill was transparent and indicated that he was an intern in the Outagamie County District Attorney's Office and later an Assistant District Attorney. Judge Gill had "minimal involvement or awareness even of what had transpired in this case,". (Transcript of the Motion Hearing, June 12, 2018, page 5, lines 19-20.) During that hearing, Judge Gill made his ruling about the production of the photos which are essential for the Defendant's case.

At the June 12, 2018 hearing, Hudson pointed out that Officer Pamenter had committed perjury at the trial on the issue of the photographs that were taken at the scene. Judge Gill agreed and stated, "Right. And I know that you've brought that to light." Attached to this motion is pages 25-27 of that hearing.

Judge Gill was elected to the District III Court of Appeals and was sworn in as an Appellate Judge on August 1, 2021. The Honorable Yadira J. Rein was appointed on June 25, 2021, to succeed Judge Gill for Branch IV in Outagamie County. On August 27, 2021, Judge Rein ruled on a motion for withdrawal of counsel on the Defendant's case. On October 21, 2021, an Application for Specific Judicial Assignment was filed. The application states that the Judge assigned to the case is Judge Gregory Gill. The basis for the request was that Judge Gill was recently elected to the Court of Appeals. From all appearances, this Application was filed by Judge Gill, but it wasn't. This was a false document. Judge Gill had been on the Court of Appeals for at least two plus months. This document was not prepared by Judge Gill because he was already on the Court of Appeals. He had no authority to request a transfer. This false document violated the criminal laws of Wisconsin. Wis. Stats. 946.12(2), Misconduct in Public Office: "In the officer's or employee's capacity as such officer or employee, does an act which the officer or employee knows is in excess of the officer's or employee's lawful authority or which the officer or employee knows the officer or employee is forbidden by law to do in the officer's or employee's official capacity; ". If Judge Gill did not sign the application, then it can also be a violation of Wis. Stats. 943.38. If Judge Gill did sign it then what was his authority to do so?

Why was the request for Application for Specific Judicial Assignment made to look as if it was made by Judge Gill when in fact, it may have been initiated by Judge Morrison? Or it could have been initiated by Judge Biskupic, Judge Schneider or even the Judicial Assistant Donna Meitner. Judge James A. Morrison appointed himself on the case. Judge Morrison was the Chief Judge of

the District starting in 2016 until 2022. How did this Court know about this case? The Defendant really doesn't know. Why was it made to look that Judge Gill initiated the Application? Did Judge Morrison and Judge Biskupic talk about this? The Defendant doesn't know because this Court says that he doesn't remember!!! The only Judge that was not involved in the Application was Judge Rein who had already made a ruling on the case.

At the November 9, 2021, this Court made contradictory statements as to the how this Application took place. First, the Court says that Judge Gill made the Application. (Transcript of November 9, 2022, Hearing, Page 25 lines 11-14) So Judge Gill was in the Appeals Court when he made this request. What was his authority to act when Jude Rein was already on the case!!! Judge Rein already made a ruling on the case!!! The Court further states that Judge Rein "had absolutely zero or close to zero criminal law experience at that time." (Transcript of November 9, 2022, Hearing, Page 26 lines 3-5) The Court somehow tries to justify his taking over this case because Judge Rein is not qualified. The Court further goes on about Judges Schneider and Biskupic being involved in the Hudson matter. How did the Court know this? Who told the Court about the Hudson case?

SCR 70.23 Assignment of circuit judges

(2) An active judge who is going to be absent from his or her court shall obtain approval of the chief judge of his or her judicial administrative district. The chief judge by order may assign an active judge of the judicial administrative district to substitute for the absenting judge. The chief judge by order may also assign an active judge of the judicial administrative district to relieve congestion, to expedite disposition of litigation or to assist in any branch of circuit court in the judicial administrative district. If no active judge of the district is available for the service, the chief judge shall request the director of state courts to assign a judge from outside the judicial administrative district or a reserve judge. The director of state courts may also make a permanent assignment to a judicial district of a reserve judge who can be assigned by a chief judge in the same manner as an active circuit judge under this section.

What authority did this Court have to reassign this case? Judge Rein was on the matter. She made rulings. This Court wanted to get her off the case. According to the Court, any Chief Judge can take any case from another Judge in the district for any reason. This Court, somehow, had special knowledge about this case. How did the Court get this information? From Judge Biskupic? From Judge Schneider? Were there some ex-parte communications? That is why an evidentiary hearing is needed. Judge Gill needs to testify. The person who prepared the Application must testify. This Court must testify!! Anyone who had communication with this Court about this case must testify!!

While Judge Gill was fully open and transparent about his connection with former District Attorneys Biskupic and Schneider, Judge Morrison has not been so open and transparent. Judge Morrison was much more involved in the Application for Specific Judicial Assignment. This was not disclosed until after the Defendant filed a motion on the issue. It has never been clarified why Judge Gill, if he did request a judicial assignment on a case where he was no longer the assigned judge. Judge Morrison said, "I made the determination that this is one that I should take out of

Outagamie County because there are so many potential conflicts and take it as far away from Outagamie County as we could in District VII.” (Transcript of Motion Hearing, November 9, 2022, Page 26, lines 16-19) Then why did Judge Morrison not take the case when Judge Gill had the case? Judge Rein never worked in the Outagamie County District Attorney’s Office under District Attorneys Biskupic and Schneider. Judge Morrison took this case so he could protect Judge Biskupic and Judge Schneider. According to Judge Morrison, no one asked him to take the case from Judge Rein, he just decided to do this on his own after Judge Rein made a ruling on the case. Was Judge Rein incompetent? No. Judge Morrison wanted this case, which is strange because he stated that he didn’t know much about the case per his statements.

One of the major claims of the Defendant is that of prosecutorial misconduct. The Prosecutors in his case were Vincent Biskupic and Carrie Schneider, both who are now Outagamie County Circuit Court Judges. The allegations include that the State failed to provide exculpatory evidence contrary to Brady v. Maryland, 373 U.S. 83 (1963), State v. Harris, 2004 WI 64, and Giglio v. United States, 405 U.S. 150 (1972). The prosecutorial misconduct claims include and not limited to withholding discovery; making false statements to the court; losing discovery; threatening witnesses; knowingly presenting false statements; falsifying evidence; and the list goes on from there.

Judge Gill was open, honest and transparent. He informed the Defendant’s counsel that he was a legal intern under District Attorney Biskupic and later an Assistant District Attorney under District Attorney Carrie Schneider. Judge Gill indicated that he could be fair and impartial. He listened to arguments and ordered that key negatives would have to be copied and photos made. He acknowledged that Officer Pamentier lied at the jury trial as shown above. This is crucial to the Defendant’s case.

How did Judge Morrison respond to Judge Gills’ order? He called it malarkey! Judge Morrison said, “I know what Judge Gill ordered, and it’s my case now and I’m responsible, and I’m not ordering the photo – the negatives to be photographed and all this malarkey.” (Transcript of Motion Hearing on August 3, 2022, Page 31, lines 13-16) He overruled Judge Gill, who was then on the Court of Appeals, on an issue that goes to the heart of the Defendant’s claims. According to Judge Morrison, photos that could bolster the Defendant’s case is malarkey.

An examination of the photo index shows that there are two photos on the first roll of film which were never provided to Hudson before his trial. These negatives are labeled 00 and 0. One of the negatives shows a photo of the interior of the driver’s side area where the knife was allegedly found. It shows no knife in the photo. On August 3, 2022, the Court inquired to Sergeant Borman as to whether he had a custody log of the negatives and Sergeant Borman said that he didn’t. The Court indicated, “If it turns out he’s not telling us the truth, he’s in a world of hurt.” (Transcript of Motion Hearing on August 3, 2022, Page 53, lines 13-15) Also at the hearing, Borman stated that he was going to get the photos developed in Appleton to be given to the Defendant.

The photos were a subject of a motion hearing that was had on September 15, 2022. Hudson had asked for photos to be processed for these photos directly from the negatives. The State did not do that. Lieutenant Borman was assigned to that task. He went to Murray Photo in Appleton, WI to get this done. Borman testified that the owner told him that they would have to send out those photos out to get processed. (Transcript of Motion Hearing on September 15, 2022, Page 23 and 24, lines 24-25 and lines 1-18) These negatives were scanned, and a digital copy made, and Borman printed it out using regular paper. The result is that the photo is entirely black by the truck's floor. When asked about getting the photos done in Appleton, Borman indicated, "I was told there is not a place within a hundred miles of Appleton." (Transcript of Motion Hearing on September 15, 2022, Page 26, lines 3-4)

Previously, the Court conducted an ex-parte examination of the negatives with Lt. Borman. This violated Hudson's right to confrontation and his right to be present. What was discussed between the Court and Officer Borman/ Hudson was then informed that Danita Metko found out that Officer Borman had lied to the Court. (See attached affidavit) Murray Photo could develop the photos in Appleton. When Hudson tried to bring this up to the Court, the Court wouldn't listen. This is the same Court that warned Borman that he would be in a world of hurt if he misrepresented the negatives log, but when there is evidence that he lied about a key piece of evidence being produced to the Defendant, the Court doesn't want to hear it.

Judge Morrison showed that he has prejudged this case. On February 24, 2023, Judge Morrison stated, "Many of the issues that Mr. Hudson raised have already been disposed of by the appellate court. I'm well aware of that, and I'm certainly not going to be overruling an appellate court. Let's be clear about that." (Transcript of February 24, 2023, Status Hearing, Page 7, lines 15-19). Judge Morrison has no problem overruling Judge Gill's orders when it benefits the State. Judge Morrison has indicated that he has prejudged this matter. He goes on further and states, "You have made a claim that you were framed. The appellate court has already indicated that they thought there is not a scintilla of evidence of that." (Transcript of February 24, 2023, Status Hearing, Page 21 lines 13-15) That was not the finding of the appellate court. Judge Morrison complains about how long this matter has been pending and he blames the Defendant. It took Steven Avery 14 years to prove that he was falsely convicted on his first case because the State withheld blood testing from the defense that showed that he could not be the perpetrator. DNA tests confirmed that Avery did not commit that sexual assault. Judge Morrison ignores the fact that the State, in this case, did not provide all the discovery in this matter and that the State lied to the court stating that the Defendant ambiguously asked for an attorney at the hospital. When the other DNA samples were tested, it did not support the State's claim that the Defendant was covered in the victim's blood. Judge Morrison has made it clear that he believes that there is not a scintilla of evidence that supports the Defendant's claim before he hears all the evidence.

Judge Morrison indicated that he has no recollection of any one in Outagamie County mentioning this case to him, but acknowledges that maybe they did. (Transcript of Motion Hearing, November 9, 2022, Page 27, lines 8-10) However, Judge Morrison has a connection to Judge Biskupic that he did not reveal. In 2016, Judge Morrison applied for an appointment to the Wisconsin Supreme Court. Judge Vincent R. Biskupic wrote a letter of recommendation to Governor Scott Walker in support of Judge Morrison. Judge Biskupic gave a glowing recommendation. (See Attachment) Judge Morrison did not disclose this to the Defendant. The

Defendant has indicated for some time that he wants an evidentiary hearing as to the claim of prosecutorial misconduct which would require testimony by Judge Biskupic. Judge Morrison would be required to determine the credibility of the individual who gave him that recommendation. Judge Morrison has not sufficiently informed the Defendant as to why he took the dramatic action of taking a case away from a sitting Judge when the Judge did not request to be taken off the case.

Judge Morrison conduct indicated that he has prejudged this case and create the appearance that he cannot be impartial. He has required the Defendant to file a comprehensive 974.06 motion and then handcuffs the Defendant. He disqualifies his counsel and gives the Defendant a less than 40 days to file this motion. He overrules Judge Gill's order to produce potential exculpatory evidence as "malarky". He did not fully disclose his involvement in having this case assigned to him. He failed to disclose his connection with potential witnesses in the case. He erroneously states that the appellate court found that there was no scintilla of evidence of the Defendant's claims and that he will not overrule the appellate court. Judge Morrison has demonstrated that he is going to deny the Defendant's motion before it is filed. For all the reasons, Judge Morrison should recuse himself from this matter.

Judge Morrison continues his assault on the Defendant's rights. The Court set a hearing date of June 15, 2023, without notifying the Defendant of the hearing or the purpose of the hearing. It did not allow the Defendant to prepare for the hearing. The Defendant was only notified of the hearing the afternoon the day before the hearing date. The Court held this hearing and limited the access of the hearing to only people that supported the State. Soon after being notified of the hearing date, individuals who are supportive of the Defendant called the Court to get the Zoom information. The Court's judicial assistant indicated that they could not attend the hearing because it was not done within five days of the hearing by written notice. That "rule" appears to be made up by this Court for only this Defendant because it doesn't appear anywhere in the Marinette County Circuit Court Rules. No such rule is in the Outagamie County Circuit Court Rules. The Defendant requests that the Court provide the written notice that was supplied to the Court from the other individuals who were given access to the Zoom information. If no written requests are received from the Court, it shows more proof that this Court is bias and prejudiced. Court access will only be granted to the select few that the Court decides. This is contrary to Wis. Stat. 757.14 Sitings, public. The sittings of every court shall be public and every citizen may freely attend the same, including proceedings held by telephone or videoconferencing technology, except if otherwise expressly provided by law. If the content of the proceeding is deemed graphic or obscene, the judge or justice may exclude from the courtroom all minors not present as parties or witnesses. The court may utilize electronic means to allow the public the ability to hear and see, in real time, all proceedings in a manner as similar as practicable to being present in the courtroom.

Marinette County Circuit Court Rules, Rule 5:502 provides "Requests for adjournments must be in writing, addressed to the assigned judge, served on all opposing parties and received by the assigned judge not later than 10 days prior to the scheduled hearing. The time limits may be waived for good cause." This Court did not give notice to the Defendant of the June 15, 2023 hearing. He found out about the hearing from staff at Oshkosh Correctional Institution on June 14, 2023, that a hearing was being scheduled. He didn't know the reason for the hearing. He

could not have requested an adjournment because the Court did not provide him with enough notice. The Court violated the local court rules to keep the Defendant in the dark and to limit individuals who are supportive of the Defendant from attending the hearing!!

At the June 15, 2023, hearing Court refused to allow the Defendant to complete the record and again showed his bias and prejudice. The Court stated "You are impugning the integrity of a court officer; specifically, my court reporter. **If you say another word, I'm going to mute you, sir. You are not going to impugn the integrity like you've done to everyone in the system; judges, police officers and everyone else.**" (Transcript at page 14 lines 7-12, emphasis added)

The Court then issued an order which was false. The Court indicated that the Defendant made a motion to reconsider a previous decision on discovery. The Defendant **never** made a motion to reconsider. The Defendant stated, "I want to file a motion for reconsideration because you relied on that." And the Court responded, "Your motion for reconsideration is denied." (Transcript at page 11, lines 13-16) The Defendant did not make a motion to reconsider, so how can the Court deny it? It is because the Court is biased and prejudiced against the Defendant. The Court didn't ask for argument. The Court didn't have a motion to rule on from the Defendant. The Defendant said that he **wanted to file** a motion. The Court dismisses the motion without it being filed or orally made. Would an unbiased court give a Defendant the opportunity to file and present evidence?

The Defendant has informed the Court that while at Oshkosh Correctional, he has no access to CCAP. He has no access to the law library. The Defendant has requested a briefing order so that he can have access to the law library. The Court has refused. The Court issued an order on another matter that references filing a motion but has failed to send a copy of the order to the Defendant.

In *Rippo v. Baker*, the Supreme Court vacated the Nevada Supreme Court's denial of a convicted petitioner's application for post-conviction relief based on the trial judge's failure to recuse himself. 137 S. Ct. 905 (2017). During Rippo's trial, the trial judge was the target of a federal bribery probe by the same district attorney's office that was prosecuting Rippo. Rippo moved for the judge's disqualification under the Fourteenth Amendment's Due Process Clause, arguing the "judge could not impartially adjudicate a case in which one of the parties was criminally investigating him." *Id.* at 906. After the judge was indicted on federal charges, a different judge subsequently assigned to the case denied Rippo's motion for a new trial. In vacating the Nevada Supreme Court's decision, the Supreme Court noted that "[u]nder our precedents, the Due Process Clause may sometimes demand recusal even when a judge 'ha[s] no actual bias.' Recusal is required when, objectively speaking, the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable." *Id.* at 907 (quoting *Aetna Life Ins. Co. v. LaVoie*, 475 U.S. 813, 825 (1986); *Withrow v. Larkin*, 421 U.S. 35, 47 (1975)). Bias or prejudice of an appellate judge can also deprive a litigant of due process. *Aetna Life Ins. Co. v. LaVoie*, 475 U.S. 813 (1986) (failure of state supreme court judge with pecuniary interest—a pending suit on an indistinguishable claim—to recuse).

State v. Goodson, 2009 WI APP. 107, 2009 WI App. 107 (Wis. Ct. App. 2009), indicates that the right to an impartial judge is fundamental to Due Process. Generally, two tests are used, one subjective and one objective. (Id at P. 8) The Court cites the standard for objective bias at par. 9:

“Objective bias can exist in two situations. The first is where there is the appearance of bias, *Gudgeon*, 295 Wis. 2d 189, ¶¶ 23-24. “[T]he appearance of bias offends constitutional due process principles whenever a reasonable person — taking into consideration human psychological tendencies and weaknesses — concludes that the average judge could not be trusted to ‘hold the balance nice, clear and true’ under all the circumstances.” *Id.*, ¶ 24 (citation omitted). Thus, the appearance of partiality constitutes objective bias when a reasonable person could question the court’s impartiality based on the court’s statements. *Id.*, ¶ 26; *Rochelt*, 165 Wis. 2d at 378. The second form of objective bias occurs where “there are objective facts demonstrating . . . the trial judge in fact treated [the defendant] unfairly.” *State v. McBride*, 187 Wis. 2d 409, 416, 523 N.W.2d 106 (Ct. App. 1994) (citation and internal quotation omitted).”

Actual bias meets the objective test. In *Goodson*, the trial court placed the defendant sentenced to prison with consecutive probation and the court warned him that if he came back on a revocation that the defendant would be given the maximum sentence. At the reconfinement hearing, the court stated that the decision to give Goodson the max was “pretty easy.” The Court held that “This is definitive evidence of actual bias.”

Stae v. Marcotte, 2020 WI App. 28, 2020 WI App.28 (Wis. Ct. App. 2020), involved a case where Marcotte was sentenced to drug court by the Honorable James A. Morrison. During a drug court hearing on October 16, 2017, Judge Morrison cautioned Marcotte against driving without a license, advising him that “conviction of another offense is grounds for immediate discharge from the [drug court] program.” Judge Morrison continued, “And in your case, discharge from the program means you get sentenced, and you go to Dodge.” It is undisputed that Judge Morrison was referring to Dodge Correctional Institution, a prison located in Waupun, Wisconsin. (Id. at p. 4)

On October 27, 2017, Judge Morrison sentenced Marcotte and Judge Morrison warned Marcotte that if he was not successful in drug court, there would be “no mercy” when Marcotte returned to court for sentencing after revocation of his probation.” (Id at p.5) At other hearings, Judge Morrison continued to threaten Marcotte with prison if he was revoked. Judge Morrison sentenced the defendant. To prison after he was revoked, and Judge Morrison defended his actions. “Judge Morrison also characterized his comments about Marcotte going to prison if he failed drug court as “completely appropriate” and explained that he routinely makes such comments to motivate drug court participants. Judge Morrison acknowledged that he is not required to send every person who fails drug court to prison.” (id. at P.15)

The Appeals Court found” *Goodson* , *Gudgeon* , and *Lamb* support our conclusion that Judge Morrison’s remarks in this case—i.e., those remarks indicating that Marcotte would receive a prison sentence if he did not succeed in drug court—gave rise to the appearance of bias evidencing a great risk of actual bias.” (Id. At P. 24) “Judge Morrison’s comments, however, show that he rejected those alternatives—or decided he would not even consider them—long before Marcotte’s sentencing after revocation hearing took place.” (Id. at p.26) The Court found

that Judge Morrison was objectively biased. Based on all the statements that Judge Morrison made during the case would “lead a reasonable person to conclude that Judge Morrison could not be impartial when sentencing Marcotte.” (Id. at P. 30)

The Court has shown a bias against Hudson from the very beginning. The Court appointed himself to the case after someone filed an Application for Specific Judicial Assignment. It has Judge Gill’s name on it, but did he authorize it months after he was on the Court of Appeals and after Judge Rein had already made a ruling on the case? Was it Judge Biskupic or Judge Schneider that did it using the Branch 4 Judicial Assistant, Donna Meitner, to prepared it? Was it Judge Morrison who can’t explain how he knew about this case? Judge Rein is fully competent or else she wouldn’t have been appointed by Gov. Evers and later elected. So why remove her from the case. The only reason is that she couldn’t be counted on to fall in line and protect the previous misconduct of some of the individuals who are now Judges.

The Defendant demands that there be an evidentiary hearing on this matter. The Defendant plans to call Judge Gill to determine once and for all if he filed the Application and under what authority. If he didn’t request it then Judge Biskupic, Judge Schneider, Donna Meitner and Judge Morrison should testify. The judicial system should be open and transparent which this clearly is not. The Court of Appeals has found that Hudson asked for an attorney at the hospital and that Biskupic lied to the trial court on this issue. But this Court is all about protecting him and his unethical conduct. It is time for the courts to address the way that this case got transferred away from an Outagamie County Judge.

From the beginning of this Court’s involvement in this case, the Court has demonstrated a bias against the Defendant. The Court has basically told the Defendant that he is going to lose his 974.06 motion no matter what he presents to the court. Judge Morrison has maneuvered a way to get this case in front of him. Did he inform Hudson that Biskupic supported this court for a higher judicial office and sent a letter to the Governor on this court’s behalf? No!! Why not??

At the August 3, 2022, hearing the Court said that he rejected Hudson’s letter because they were ex parte (Page 10 line 2-3) but it is fine for the Court to have an ex parte communication with Officer Borman to view crucial evidence in the case. (See page 17 of the transcript). Later in the hearing the Court rules, “I know what Judge Gill ordered, and it’s my case now and I’m responsible, and I’m not ordering the photo – the negatives to be photographed and all this malarkey.” (Transcript of Motion Hearing on August 3, 2022, Page 31, lines 13-16) He overruled Judge Gill, who was then on the Court of Appeals, on an issue that goes to the heart of the Defendant’s claims. During this hearing, the Court threatens to mute Hudson but when an unidentified male says, “This is ridiculous.” The Court says nothing. (Page 20, line 4). Threats by the Court are only used on the Defendant!! Borman even admits that in 2018 he went to the KKKPD and saw two photos that he never knew existed. (Page 25). When Hudson wants to make a record the Court says, “No. You will not say anything else.” (Page 32 line 25) On page 34 lines 12- 14, the Court shows that he is prejudging the case when he says, “Ms. Tempelis, I am not suggesting for a minute that he has the right to file any motion at this point, that ship has not sailed long ago.” Page 35, lines 20-21 the Court says, “You’re not gonna (sic) get a chance to have another kick at the cat.” So, if Hudson’s constitutional rights have been violated, too bad. If he was wrongfully convicted, oh well you are not going to get a chance!! The Court says, “Every

judge who's looked at every substantive issue you've raised has said that you're wrong. So, there's no reason for us to believe you have much to do now." (Page 36, lines 19-22) Not only is that prejudging the matter, but it is also wrong!! The Courts have found that Hudson did ask for an attorney and that all his statements should have been suppressed!!

Later the Court at the same hearing refused to let Hudson argue a motion because the Court had already looked at the file and he is denying the motion. (Page 37) At the September 15, 2022 hearing, the court indicates that Hudson was unable to convince the Appellate Court of the conspiracy theory and essentially Hudson has to prove that the Appellate Court was wrong!! (Page 33) This Court has repeatedly said that there is no evidence to support Hudson's claim. "Not a scintilla of evidence" is the phrase that the Court used. The Court has prejudged this matter. He has made it impossible for the Defendant to file a complete 974.06 motion by his scheduling and by not providing the Defendant a scheduling notice so that he can use the law library at the Oshkosh Correctional Institution. He doesn't notify the Defendant of upcoming hearings until the prison tells him about it the day before. He refuses to let members of the public be present on Zoom unless they support the State.

This Court has repeatedly commented on the length of this case and blames it on the Defendant. But when you look at the root causes of the delays it falls on the State. The State failed to provide the dispatch tape, exhibit 116, until trial. The State failed to provide the second report of the DNA analysis before trial. The key piece of evidence in this case were the negatives of Officer Pamentier. The State didn't produce it until after trial. Even Officer Borman at the he discovered two photos, 00 and 0, at the Kaukauna Police Department that he had never seen before until 2018, 18 years after the trial!!! These are key pieces of evidence that they State hid from the Defendant. The State opposed DNA testing on the other samples in the State's controlled which when tested, several years after trial, were consistent with the Defendant's story.

Throughout this case, the Court has shown a bias against the Defendant by first have the case surreptitiously assigned to him. He has hidden his connection to one of the main actors in the case, Judge Biskupic, while saying that he may have talked to someone in Outagamie County about the case. He has demonstrated that he is impartial, therefore the Defendant requests that the Court recuse itself. An evidentiary hearing is needed. If Biskupic and /or Schneider orchestrated the Application for Specific Judicial Assignment, then it is just more evidence of the conspiracy that the Defendant has complained about. This Court is being asked to make findings that one of his ardent supporters for the Wisconsin Supreme Court, not only lied to the trial court in this matter, which has been shown by the Appellate Court, but committed other acts of misconduct by knowingly and intentionally presenting false testimony at trial. We know the answer to that question by the Courts previous statements, "There is not a scintilla of evidence!!" The Court has shown actual bias and subjective bias in this matter. The Court should recuse himself and schedule an evidentiary hearing so that a fair and impartial judge could hear the matter. Without this the Court will be violating Hudson's Due Process Rights under the 5th and 14th Amendment to the U.S. Constitution and Article 1, Sections 7 and 8 of the Wisconsin Constitution.

Submitted: _____

Kenneth A. Hudson, the Defendant

Respectfully Submitted

This date: 14/11 of August 2023

Kenneth A. Hudson
Kenneth A. Hudson, pro se