

WISCONSIN COURT OF APPEALS, DISTRICT III

State v. Brian Tyrone Ricketts, Jr.

State v. Ricketts · No. 2024AP2291-CR · Decided December 9, 2025

SUMMARY

The Wisconsin Court of Appeals, District III, interprets the phrase “was convicted on 2 or more separate occasions” in Wisconsin’s domestic abuse repeater statute, Wis. Stat. § 939.621. The court holds that a defendant qualifies based on two qualifying convictions within the statutory period even if the convictions arose from the same incident, had the same offense date, or occurred during the same court appearance. The court reversed the circuit court’s order striking the domestic abuse repeater enhancer and remanded for further proceedings.

CASE DETAILS

COURT	Wisconsin Court of Appeals, District III
WRITING FOR THE COURT	Hruz, J.; Stark, P.J.; Gill, J.
JURISDICTION	Wisconsin Court of Appeals, District III
DECIDED	December 9, 2025
DOCKET	2024AP2291-CR
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State obtained leave to appeal a nonfinal circuit-court order striking the domestic abuse repeater enhancer from the charges against Ricketts.
STANDARD OF REVIEW	Statutory interpretation is a question of law reviewed independently.
PRECEDENTIAL VALUE	Published Wisconsin Court of Appeals opinion; recommended for publication in the official reports.
PARTIES	State of Wisconsin v. Brian Tyrone Ricketts, Jr.

TOPICS

statutory interpretation

criminal procedure

appellate procedure

appellate jurisdiction

sentencing

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the phrase "was convicted on 2 or more separate occasions" in Wisconsin's domestic abuse repeater statute, WIS. STAT. § 939.621(1)(b), requires convictions arising from separate incidents or offense dates.
2. Whether the phrase should be interpreted consistently with the Wisconsin Supreme Court's construction of nearly identical language in the general repeater statute, WIS. STAT. § 939.62(2).
3. Whether the circuit court properly relied on *State v. Rector* and *Wooden v. United States* to interpret "separate occasions."

HOLDINGS

1. A defendant qualifies as a domestic abuse repeater if the defendant was convicted of two qualifying domestic abuse offenses during the required statutory period, regardless of whether the convictions arose from the same incident, had the same offense date, or occurred during the same court appearance.
2. Ricketts qualifies as a domestic abuse repeater because it is undisputed that he had two qualifying domestic abuse convictions within the applicable ten-year period.

KEY QUOTATIONS

"Based on those prior interpretations, we conclude that for purposes of the domestic abuse repeater statute, a defendant "was convicted on 2 or more separate occasions" as long as he or she was convicted of two qualifying domestic abuse offenses during the requisite statutory time period, regardless of whether those convictions arose out of the same incident, had the same offense date, or occurred during the same court appearance." (§ 3)

"Consistent with Wittrock and Hopkins, what matters is the quantity of the defendant's prior domestic abuse crimes, not the time of commission or the time of conviction." (§ 37)

FACTUAL BACKGROUND

The State charged Ricketts with misdemeanor battery and disorderly conduct, each accompanied by a domestic abuse surcharge, repeater allegation, and domestic abuse repeater allegation. The State relied on Ricketts's May 26, 2022 convictions in Outagamie County Case No. 21CF974 for battery-domestic abuse and disorderly conduct-domestic abuse. Those two convictions arose from a single incident occurring on September 5, 2021, but were qualifying convictions within the ten-year period preceding the charged offenses.

PROCEDURAL HISTORY

The Brown County circuit court granted Ricketts's motion to strike the domestic abuse repeater enhancer, concluding that two prior domestic abuse convictions arising from one incident did not constitute convictions on

two separate occasions. The Wisconsin Court of Appeals granted the State's petition for leave to appeal, converted the appeal to a three-judge appeal, reversed the order, and remanded for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for further proceedings consistent with the opinion, including reinstatement of the domestic abuse repeater enhancer.

CASES CITED

- State v. Wittrock, 119 Wis. 2d 664, 350 N.W.2d 647 (1984)
- State v. Hopkins, 168 Wis. 2d 802, 484 N.W.2d 549 (1992)
- State v. Rector, 2023 WI 41, 407 Wis. 2d 321, 990 N.W.2d 213
- State v. Lamar, 2011 WI 50, 334 Wis. 2d 536, 799 N.W.2d 758
- State ex rel. Kalal v. Circuit Court for Dane County, 2004 WI 58, 271 Wis. 2d 633, 681 N.W.2d 110
- Belding v. Demoulin, 2014 WI 8, 352 Wis. 2d 359, 843 N.W.2d 373
- State v. Peters, 2003 WI 88, 263 Wis. 2d 475, 665 N.W.2d 171
- Noffke ex rel. Swenson v. Bakke, 2009 WI 10, 315 Wis. 2d 350, 760 N.W.2d 156
- State v. Jeremiah C., 2003 WI App 40, 260 Wis. 2d 359, 659 N.W.2d 193
- State v. Reyes Fuerte, 2017 WI 104, 378 Wis. 2d 504, 904 N.W.2d 773
- Progressive Northern Insurance Co. v. Romanshek, 2005 WI 67, 281 Wis. 2d 300, 697 N.W.2d 417
- Zimmerman v. Wisconsin Electric Power Co., 38 Wis. 2d 626, 157 N.W.2d 648 (1968)
- Estate of Miller v. Storey, 2017 WI 99, 378 Wis. 2d 358, 903 N.W.2d 759
- Eau Claire County DHS v. S.E., 2021 WI 56, 397 Wis. 2d 462, 960 N.W.2d 391
- CED Properties, LLC v. City of Oshkosh, 2018 WI 24, 380 Wis. 2d 399, 909 N.W.2d 136
- State v. Finley, 2016 WI 63, 370 Wis. 2d 402, 882 N.W.2d 761
- State v. Saunders, 2002 WI 107, 255 Wis. 2d 589, 649 N.W.2d 263
- State v. Hill, 2016 WI App 29, 368 Wis. 2d 243, 878 N.W.2d 709
- Cook v. Cook, 208 Wis. 2d 166, 560 N.W.2d 246 (1997)
- Wooden v. United States, 595 U.S. 360 (2022)

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