

COURT OF APPEALS OF WISCONSIN, DISTRICT II

State v. Gustin J. King

King · No. 2024AP2064-CRNM · Decided February 18, 2026

SUMMARY

The Wisconsin Court of Appeals dismissed Gustin J. King's no-merit appeal for lack of appellate jurisdiction. The court held that a judgment of conviction on three misdemeanor counts was not final under Wisconsin Statutes § 808.03(1) because a felony count remained unresolved under a Deferred Judgment Agreement, and it denied King's alternative request for leave to appeal a non-final order.

CASE DETAILS

COURT	Court of Appeals of Wisconsin, District II
WRITING FOR THE COURT	Neubauer, P.J.; Gundrum, J.; Lazar, J.
JURISDICTION	Wisconsin Court of Appeals, District II
DECIDED	February 18, 2026
DOCKET	2024AP2064-CRNM
DISPOSITION	dismissed
PROCEDURAL POSTURE	No-merit appeal from a judgment of conviction entered by the Calumet County Circuit Court on three misdemeanor counts while a felony count in the same case remained unresolved under a Deferred Judgment Agreement.
STANDARD OF REVIEW	The court independently determines its appellate jurisdiction and applies the plain language of WIS. STAT. § 808.03(1) to determine whether a final judgment or order exists.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Gustin J. King v. State of Wisconsin

TOPICS

appellate jurisdiction final judgment rule interlocutory appeal post-conviction relief
statutory interpretation

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Wisconsin Court of Appeals had appellate jurisdiction over a judgment of conviction on three counts when a fourth criminal count in the same case remained unresolved under a Deferred Judgment Agreement.
2. Whether the court should grant leave to appeal a non-final order under WIS. STAT. § 808.03(2) so that no-merit review of the misdemeanor convictions could proceed.

HOLDINGS

1. A judgment of conviction on some counts is not final for purposes of appeal under WIS. STAT. § 808.03(1) when another charged criminal count in the same matter remains unresolved because dismissal or conviction has been deferred under a Deferred Judgment Agreement. The court therefore lacked jurisdiction over the premature appeal.
2. The court declined to exercise its discretion to grant leave to appeal a non-final order because the criteria under WIS. STAT. § 808.03(2) were not satisfied.

KEY QUOTATIONS

“Applying the plain language of WIS. STAT. § 808.03(1) (2023-24), we conclude that we lack jurisdiction over this premature no-merit appeal.” (¶1)

“Applying the plain meaning of WIS. STAT. § 808.03(1), we conclude that the judgment of conviction entered in this case was not final for purposes of appeal because it did not “dispose[] of the entire matter in litigation.”” (¶9)

“Once the felony count is resolved by entry of a final order or judgment, King will be able to seek postconviction review of the entire case.” (¶10)

FACTUAL BACKGROUND

King was charged with three misdemeanors and a felony. Under a plea agreement, he pleaded guilty to all four counts, but the felony was placed under a Deferred Judgment Agreement: successful completion would result in dismissal, while a violation would result in sentencing. The circuit court sentenced King on the three misdemeanors and entered a judgment of conviction on those counts, but the felony remained unresolved.

PROCEDURAL HISTORY

King was charged with three misdemeanors and one felony. He entered guilty pleas to all counts, but sentencing and entry of judgment on the felony were deferred under a Deferred Judgment Agreement, while the circuit court sentenced him on the misdemeanors and entered a judgment of conviction on those counts. After King filed a notice of intent to pursue postconviction relief, appointed counsel filed a no-merit notice of appeal. The Wisconsin Court of Appeals questioned its jurisdiction, concluded the judgment was not final because the felony count remained unresolved, denied leave to appeal a non-final order, and dismissed the appeal.

DISPOSITION

dismissed

CASES CITED

- Carla B. v. Timothy N., 228 Wis. 2d 695, 698, 598 N.W.2d 924 (Ct. App. 1999)
- State v. Malone, 136 Wis. 2d 250, 257-60, 401 N.W.2d 563 (1987)
- State v. Rabe, 96 Wis. 2d 48, 57, 291 N.W.2d 809 (1980)
- Thomas/Van Dyken Joint Venture v. Van Dyken, 90 Wis. 2d 236, 242-43, 279 N.W.2d 459 (1979)
- Anchor Savings & Loan Ass'n v. Coyle, 148 Wis. 2d 94, 100, 435 N.W.2d 727 (1989)
- State ex rel. Kalal v. Circuit Ct. for Dane Cnty., 2004 WI 58, ¶45, 271 Wis. 2d 633, 681 N.W.2d 110

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