

COURT OF APPEALS OF WISCONSIN

State v. Robert M. Christianson

Appeal No. 2024AP1884-CR · No. 2024AP1884-CR · Decided February 12, 2026

SUMMARY

The Wisconsin Court of Appeals considered Robert Christianson's collateral challenges to three prior OWI convictions used to enhance his current OWI sentence. The court held that the State failed to establish a knowing, intelligent, and voluntary waiver of counsel in the 1999 Minnesota conviction, but met its burden regarding the two Wisconsin convictions. The court affirmed in part, reversed in part, and remanded for resentencing treating the current OWI as a seventh offense.

CASE DETAILS

COURT	Court of Appeals of Wisconsin
WRITING FOR THE COURT	Kloppenburg, J.; Graham, P.J.; Blanchard, J.
JURISDICTION	Wisconsin Court of Appeals, District IV
DECIDED	February 12, 2026
DOCKET	2024AP1884-CR
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a judgment of the La Crosse County Circuit Court rejecting Christianson's collateral challenges to three prior OWI convictions used to enhance the penalty for his current eighth-offense OWI.
STANDARD OF REVIEW	The circuit court's factual findings are upheld unless clearly erroneous. Whether those findings satisfy the constitutional standard for a knowing, intelligent, and voluntary waiver of counsel is reviewed de novo. A competency determination concerning self-representation is upheld unless totally unsupported by the facts apparent in the record.
PRECEDENTIAL VALUE	Published; recommended for publication in the official reports.
PARTIES	Robert M. Christianson v. State of Wisconsin

TOPICS

- right to counsel
- criminal procedure
- sentencing
- state post-conviction relief
- appellate procedure

PRACTICE AREAS

criminal law

criminal procedure

sentencing

constitutional law

appellate practice

QUESTIONS PRESENTED

1. Whether Christianson made a prima facie showing that he was denied the constitutional right to counsel in each of the three prior convictions used to enhance his current OWI sentence.
2. Whether the State proved by clear and convincing evidence that Christianson knowingly, intelligently, and voluntarily waived counsel in the 1999 Minnesota, 2000 Wisconsin, and 2001 Wisconsin cases.
3. Whether the absence of an on-the-record competency determination in the prior cases required invalidation of the prior convictions for sentence-enhancement purposes.
4. Whether the 1999 Minnesota DWI conviction could be counted as a prior conviction under Wisconsin's OWI penalty scheme.

HOLDINGS

1. Christianson established a prima facie denial of counsel, and the State failed to prove by clear and convincing evidence that he knowingly, intelligently, and voluntarily waived his constitutional right to counsel. The 1999 conviction therefore could not be used to enhance his current OWI sentence.
2. Christianson made a prima facie showing of denial of counsel, but the State proved by clear and convincing evidence that he knowingly, intelligently, and voluntarily waived counsel. The 2000 conviction could be counted as a prior conviction.
3. Christianson made a prima facie showing of denial of counsel, but the State proved by clear and convincing evidence that he knowingly, intelligently, and voluntarily waived counsel. The 2001 conviction could be counted as a prior conviction.
4. The absence of an on-the-record competency determination by the 1999, 2000, and 2001 courts did not require invalidation of the prior convictions. The reviewing circuit court could determine competency in the collateral proceeding, and its implicit determination that Christianson was competent to proceed without counsel in all three cases was not totally unsupported by the record.

KEY QUOTATIONS

“When a defendant seeks to proceed without counsel, “the circuit court must insure that the defendant (1) has knowingly, intelligently[,] and voluntarily waived the right to counsel, and (2) is competent to proceed pro se.”” (¶ 11)

“The State may use “any evidence” to show that the defendant knew and understood this information.” (¶ 18)

“Accordingly, we affirm in part, reverse in part, and remand to the circuit court for resentencing, this time treating the OWI as a seventh offense.” (¶ 76)

FACTUAL BACKGROUND

Christianson pleaded no contest to operating a motor vehicle while under the influence of an intoxicant as an eighth offense, with the enhanced penalty based on seven prior OWI or DWI convictions. He collaterally challenged three prior convictions—a 1999 Minnesota DWI conviction and 2000 and 2001 Wisconsin OWI convictions—because he had not been represented by counsel and allegedly had not validly waived counsel or been found competent to proceed without counsel. The record showed that the courts in the prior cases did not conduct the Wisconsin Klessig colloquy or make an on-the-record competency determination, although written waiver forms and plea-hearing colloquies supplied evidence regarding the 2000 and 2001 waivers.

PROCEDURAL HISTORY

The State charged Christianson with OWI as an eighth offense based on seven alleged prior OWI convictions. Christianson moved to collaterally challenge three prior convictions, asserting that he had proceeded without counsel, had not validly waived counsel, and had not been found competent to proceed pro se. After an evidentiary hearing, the circuit court denied the motion, concluding that Christianson knowingly, intelligently, and voluntarily waived counsel in all three cases and was competent to proceed without counsel. The Court of Appeals held that the challenge to the 1999 Minnesota conviction succeeded, upheld the 2000 and 2001 Wisconsin convictions, and remanded for resentencing as a seventh-offense OWI.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the La Crosse County Circuit Court for resentencing, treating Christianson's current OWI as a seventh offense rather than an eighth offense.

CASES CITED

- State v. Klessig, 211 Wis. 2d 194, 564 N.W.2d 716 (1997)
- State v. Hahn, 2000 WI 118, 238 Wis. 2d 889, 618 N.W.2d 528
- State v. Ernst, 2005 WI 107, 283 Wis. 2d 300, 699 N.W.2d 92
- State v. Clark, 2022 WI 21, 401 Wis. 2d 344, 972 N.W.2d 533
- State v. Bohlinger, 2013 WI App 39, 346 Wis. 2d 549, 828 N.W.2d 900
- Iowa v. Tovar, 541 U.S. 77 (2004)
- State v. Baehni, No. 2015AP2263-CR, unpublished slip op. (WI App Apr. 27, 2017)
- State v. Bangert, 131 Wis. 2d 246, 389 N.W.2d 12 (1986)
- State v. Owens, 148 Wis. 2d 922, 436 N.W.2d 869 (1989)
- State v. Hoppe, 2009 WI 41, 317 Wis. 2d 161, 765 N.W.2d 794
- Pickens v. State, 96 Wis. 2d 549, 292 N.W.2d 601 (1980)
- State v. Pettit, 171 Wis. 2d 627, 492 N.W.2d 633 (Ct. App. 1992)
- Barrows v. American Family Insurance Co., 2014 WI App 11, 352 Wis. 2d 436, 842 N.W.2d 508
- Johnson v. Zerbst, 304 U.S. 458 (1938)

