



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT IV

January 4, 2012

To:

Hon. J. Mac Davis
Circuit Court Judge
Waukesha County Courthouse
515 W. Moreland Blvd.
Waukesha, WI 53188

Kathleen A. Madden
Clerk of Circuit Court
Waukesha County Courthouse
515 W. Moreland Blvd.
Waukesha, WI 53188

Lewis W. Beilin
Assistant Attorney General
P. O. Box 7857
Madison, WI 53707-7857

Jeremy P. Levinson
Joseph M. Peltz
Friebert, Finerty & St. John, S.C.
330 E. Kilbourn Ave., Ste 1250
Milwaukee, WI 53202

David C. Rice
Asst. Attorney General
P.O. Box 7857
Madison, WI 53707-7857

Joseph Louis Olson
Steven M. Biskupic
Adam E. Witkov
Michael Best & Friedrich LLP
100 E. Wisconsin Ave., Ste. 3300
Milwaukee, WI 53202

You are hereby notified that the Court has entered the following order:

2012XX4

Friends of Scott Walker v. Michael Brennan (L.C. # 2011CV4195)

Before Lundsten, P.J., Vergeront and Higginbotham, JJ.

The appellants have moved for relief pending appeal in this court. They request an order staying a circuit court hearing set for January 5, 2012. The appellants are required to seek that relief first in the circuit court, and it appears they have done so. *See* WIS. STAT. RULE 809.12 (2009-10).¹ A party moving for relief in this court must state the reasons for the circuit court's action on the motion for relief. *Id.* Our role in deciding a motion for relief pending appeal is

¹ All references to the Wisconsin Statutes are to the 2009-10 version unless otherwise noted.

normally to review the circuit court's decision on that motion for an erroneous exercise of discretion. *State v. Gudenschwager*, 191 Wis. 2d 432, 529 N.W.2d 225 (1995). We affirm if the circuit court examined the relevant facts, applied a proper standard of law and, using a demonstrated rational process, reached a conclusion that a reasonable judge could reach. *Id.*

It is apparent from this rule and *Gudenschwager* that the circuit court should normally render the initial decision on such a motion before we address the merits. Furthermore, the views of the circuit court can assist this court in reviewing the motion, because the circuit court is more familiar with the case and is able to provide an independent analysis of the relevant factors. Therefore, we normally wait to act on a motion for relief until the circuit court has acted. In this case, the movants have not provided us with any information about the circuit court's decision on the motion for relief. Therefore, we ask the movants to advise us of the status of their motion in circuit court, and whether they have any information about when, or whether, the circuit court might issue a decision on that motion.

IT IS ORDERED that at the appellants' earliest opportunity, they shall advise this court by letter of the status of their motion for relief in circuit court.

A. John Voelker
Acting Clerk of Court of Appeals