

SUPREME COURT OF WISCONSIN  
PETITION FOR REVIEW

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TOCHOLKE vs. TOCHOLKE  
L.C.#2002FA365  
2012AP1542

Bernard Tocholke, the appellant, hereby petitions the Supreme Court of the State of Wisconsin, pursuant to Wis. Stat. § 808.10 and Wis. Stat. § (Rule)809.62 to review the decision or order of the Court of Appeals, District II , in Tocholke vs. Tocholke, appeal no. 2012AP1542, filed on July 5, 2012 .

Statement of the Issues

In 2002, an egregious and erroneous error was made by a Commissioner in the Kenosha Circuit Court. Extremely ignorant in judicial matters, I, Bernard Tocholke, did not know what to do. At that time, I did have an extremely poor attorney that did NOT correct the mistake even though special evidence and documents were provided to him. From that original error until now, every judge in the Kenosha Courts refused to address the mistake or issue. Because of the judicial ignorance which I had, the mistake was never corrected.

Because of "user-unfriendly" standards required to file an appeal at the Court of Appeals for the common citizen, I could therefore never file an accepted Brief. I am NOT an attorney, nor could I afford an attorney. Public defenders do not get appointed to Family Court victims. As the years went by, the skill and knowledge at how to file developed, but it was too late to correct the mistake. I received numerous vindictive and malicious actions by the judges, which incarcerated me out of retaliation and then recused themselves off of the case.

Then in 2011, I filed for a new Order to Show Cause. One of the issues was to correct the error. In 2012, the new judge stated that he is not allowed to correct a mistake because of a decision the Court of Appeals made. I therefore, appealed his

decision on not being capable of correcting mistakes. My main part of the appeal was using the § 767.59(1m) . . . EXCEPT TO CORRECT PREVIOUS ERRORS IN CALCULATIONS. The question that was asked was, IS THE CIRCUIT COURT CAPABLE AND EVEN REQUIRED (IF REQUESTED) TO CORRECT PREVIOUS ERRORS IN CALCULATIONS? Nowhere did I ask the Court of Appeals to decide if a mistake was made. HOWEVER, the Court of Appeals DID NOT answer that main question, but instead created their own question which I never asked (if a mistake was made), and then decided that NO mistake was made.

I never asked them to decide if a mistake was made, and neither do I ask this court to decide that. I asked them, and now ask this court the same question, Can the Circuit Court correct errors in calculations from years past which the Commissioner and the opposing attorney concocted and fabricated?

Reason the Supreme Court should grant review

As already explained, the first reason is because the Court of Appeals created their' own question and then answered it, but NEVER answered the main question that was asked.

Because they NEVER answered the main question, they directly violated my 14<sup>th</sup> amendment of getting a fair trial. This case is permeated not only with Wisconsin Statute violations, but also with violations and deprivations of the United States Constitution.

It also was ironic when after I filed my brief, the respondent's attorney NEVER filed any respondent's Brief. Even though there was an indirect admission of guilt (by him), the Court of Appeals (COA) still ruled in favor for the opposing side, despite that the COA created their own question and then answered it.

## Statement of the Case

This case is permeated with vindictive and malicious behavior, which is a direct violation of the U.S. Constitution.

After the wrongful error in calculation, each judge thereafter violently refused to even look or discuss the possibility of having a mistake in the case. They vindictively and deliberately ignored the issue. Judge Mary K. Wagner ordered me to keep quiet or she would hold me in contempt. Even though I had sold everything I could to pay \$18,000 in 22 months, she angrily ordered six months of incarceration in the County Jail. Immediately I filed for an appeal. After serving only about three months she suddenly called for a hearing and released me. It was a clever tactic so that now I MUST comply with all the NOT-so user-friendly standards of the Court of Appeals. My appeal was rejected because at that time I did not know how to type nor did I know what mono-spacing was. She knew that if she left me in jail, the Court of Appeals would have had to accept my appeal even if it was scribbled on toilet paper.

Just two months later, I had another hearing scheduled to be in front of her. As I entered her courtroom, she literally ran out the side door and had me arrested. To this day, I NEVER received that deprived but scheduled hearing. After that ordeal she recused herself off of this case.

Judge Bruce E. Schroeder was another vindictive character. When I brought up my ex-wife, about how her pastor (and his wife) beat my children with bread boards, Judge Schroeder ordered everything off record. Then he elaborated how he was beat with sawed-off golf clubs! He continued his opinions by saying even golf club beatings are NOT considered child abuse in his mind! If that is not child abuse, would beating him with a golf club be idiot abuse or be considered as threatening him? I must get national publicity on this if I ever get incarcerated again.

When I placed that information on my website, he became really vindictive and sought the opportunity to retaliate. He did, just two hearings later, by sentencing me to another six months in jail. Shortly before release, he called for a special hearing where I appeared in my jail clothes. He stated that he

knows how I feel toward him, and that I should know how he will rule in the future against me, and therefore if I request him to recuse himself, that he would grant my wishes. In regards to what it may appear in the records, it would seem that I requested him to recuse himself and that he accepted my wishes. However, in reality it was his idea and action in calling a special hearing, and then initiating the questions for me to request him to recuse himself. Dirty details like this would probably not show up in the record.

### The main issue of this case

**Fact,** - The court commissioner and opposing attorney made a deliberate mistake. **Fact,** - Because the mistake was made, I was wrongfully incarcerated for a year!

The reason the Courts of Wisconsin have NOT corrected the mistake, is because they do NOT want to admit that they made a mistake. They must think that it is in the best interest of the courts to keep kicking the can down the road. I already believe that this Supreme Court will do it too, and reject this petition. However, it might be much more beneficial for this court to order the mistakes to be corrected, than to suffer national publicity of the corruption that has taken place in Wisconsin.

### THE ARGUMENT

Pushed into a corner:

I am NOT an attorney, nor can I obtain an attorney by any method. An error in calculation was made and was NEVER corrected. All the various judges, and at every hearing which I brought up the mistake, almost violently refused to discuss the issue. I was wrongfully framed with an income of twice what the IRS accepted me at. Because of that egregious error I spent an entire year wrongfully incarcerated. Due to the constant incarceration and being homeless each time I was released led to these outrageous arrearages. I am almost \$140,000 in arrears.

To make matters worse, last September 2012, I climbed a tree to take it down and the tree broke off at ground level. I was in extreme pain for the next six months and still slightly suffer from the work-related accident today. Due to the fall, it was nearly impossible to provide for myself let alone pay child support. Looking back it would have been better being incarcerated where the jail would have taken better care of me.

No typical options available:

Most of my life I was paid by the production volume which I produced. I am turning 53 this year and my body does not allow me to produce much more than a quarter of what I did when I was thirty years of age. Employers are NOT interested in me anymore. It is impossible to get a good paying job. The economy is poor. My joints and back hurt constantly. However, I am not disabled yet, just drastically slowed down physically.

**My only unethical options which will affect the court system:**

I have been judicially pushed into poverty, though no fault of my own. With the huge wrongful debt hanging onto me, it hinders me from getting any loan to improve myself. My extremely poor credit rating does not allow me to buy a dependable vehicle so I could guarantee that I could dependably show up at a better paying job in either Duluth or the Twin Cities, and that is if I could find an employer that wants to hire an old man.

With each time that I was released from an incarceration sentence, it became increasingly more difficult to pull out of the poverty, homeless, and jobless state. The last release was in 2008 and I still have not recovered into being an asset to society. Trying to survive below poverty standards is a constant and daily battle. In the winter months it is mere existence.

Therefore, I have concluded that my present "lifestyle" is only one shade away from being a bum. I have resolved that if I do NOT get this problem corrected or if I get incarcerated again, **I WILL NOT EVEN TRY TO REBUILD AGAIN!** Why should I try? If the correction does NOT take place, I plan on moving to Washington, DC and become a picketing bum. My plans are to get national public attention. Friends have donated to me several

Wisconsin flags. With those flags I can create a scene when they go up in flames. If I run out of food and also need a place to sleep where it is warm, I can acquire that by taking a can of spray paint and spraying on the sidewalks or the United States Supreme Court building, [www.screwedkenoshastyle.com](http://www.screwedkenoshastyle.com) ! I am sure I could get three square meals and a cot that way. There is even a greater benefit to that plan.

Benefits in painting my website on the U.S. Court building:

1. I would get food and a place to sleep.
2. I would get national public attention, probably on TV.
3. I would become a criminal that would not be restricted a public defender.
4. Once I get appointed a public defender and the court process begins, case law would also begin which leads to more publicity.
5. With all the publicity, my book sales might spike.
6. My website would also go viral.
7. With all the publicity, the Kenosha Judge's "dirty underwear" would be publicized.
8. This country (and world) would hear that it is **judge approved to beat children with sawed-off golf clubs!**
9. The world could also hear that a judge can have a 2<sup>nd</sup> DUI and never serve a minute in jail like the common citizen would be required to serve. Exposure is great! All this information can be read about in my book.
10. Exposure would draw Kenosha, Wisconsin residents to the website where they could read what my ex-attorney did. He can violate all the ABA ethical and conduct rules and still practice law. With national publicity his practice might be negatively impacted.
11. The opposing attorney, Tommy Anderson, Jr., might also get negative attention when it gets revealed that he can lie to a judge in court at how the numbers for calculation were fabricated. I enjoyed trying to sue him once and constantly seek the opportunity to try again.
12. It will be satisfying when the national publicity begins that I will be able to say that I tried EVERY possible option to get the mistake corrected before resorting to demonstrations of flag burning and graffiti. I contacted 100's of politicians, and exhausted every

judicial option but only got rejected. Will this court drive the final nail into that fact?

13. I am just one shade away from getting the "Freedom" that Janice Joplin sang about when she said that, "Freedom is just another word when there is nothing left to lose".
14. If I spray, [www.screwedkenoshastyle.com](http://www.screwedkenoshastyle.com) on the United States Supreme Court building, my wall modification would be considered a federal crime, so therefore it would get federal recognition which would also obtain a federal attorney for me.
15. Living the life I had to endure for the last several months was stressful not knowing where I can get the money for insurance, rent, gas, or even food. Jail is a lot easier. So being in jail or just being a picketing bum would be an anti-stress remedy and benefit.
16. The greatest difficulty of getting incarcerated is struggling in picking up the pieces upon release. Jail in itself is simple. When I am resolved that I will NEVER even try to pick up the pieces, there begins a longing and desire to place myself into the position where the judge can push me over the "I don't give a f\*\*cs, cliff".
17. Seeing my children in Ohio is a neutral wash. The last time I saw them was in October shortly after I was injured. For several months now I have been too broke to see them. So if I do not see them now, nothing changes when I become a bum or jailbird. They have NEVER written me a letter or card in the last ten years. They never call just to talk. And my ex-wife intercepts the letters which I send.
18. In final, there is no fear of loss considering the life which seems to lie before me. In fact, there is almost a desire that this court would reject this Petition so that I can begin my new and exciting life! My vehicle has nearly 300,000 miles on it with lots of rust and missing metal. I painted the bottom black to hide the rust and hold it together.

There is only one emotional conflict in my mind. Suppose that the court would throw me in jail, which is ok. What if after I served my time and get released, that I then would not get the Wisconsin flags back which the authorities took from me? I

would need to improvise. Do I do the despicable of using the American flag?

I gave that situation a lot of thought. The United States of America flag represents, "with freedom, liberty, and justice for all." If I get rejected by this Wisconsin Supreme Court, that statement would **NOT** apply or include me. Neither would the U.S. Constitution and the 14<sup>th</sup> amendment have anything to do with me since I was denied the very foundation of it. Therefore, my resistance at burning an American flag lies totally in the hands that decide whether this petition gets rejected. I know burning the flag would only get me negative publicity, BUT IT WOULD NEVERTHELESS GET ME NATIONAL PUBLICITY, which I desperately need. In this case negative publicity is gold when a person needs attention. So upon release, if I do not have a Wisconsin flag, I know I will be able to find someone's American flag to acquire publicity and hopefully justice. However, I wish I never have to resort to that option, but if it is the only one left or starve in the street, I know I can force myself to do that out of the need to survive.

This Petition for Review could go either way. If this Court considers it to be created by someone that is NOT an attorney, it can qualify as being somewhat resembling the "meal" that was ordered by this court. However, if this court chooses to keep "kicking the can down the road", there is enough "wrong flavor" in the meal I created, so that they can reject it. Regardless of the choice that this court will do, I can honestly say that I did my best at resolving this issue by using the normal judicial methods and procedures of appealing. Now my life or my route in life hangs in the balance at the discrimination of this court. Will I have to finish my life in either jail or on the streets of Washington, DC as a picketing bum? This court has the control of that in this appeal if that will be my final fate.

Signed this 15<sup>th</sup> day of July, 2013 \_\_\_\_\_

Bernard Tocholke 49605 Wild Haven Rd., Bruno, MN 55712

## APPENDIX

The first Exhibit **A** , is a short portion of the court transcripts of years earlier. Anybody that sees me picketing or burning a Wisconsin flag in Washington, DC, can find this Exhibit on my website. It has been posted there for several years! Go to [www.screwedkenoshastyle.com](http://www.screwedkenoshastyle.com) , then look down the left side of the graph and click on "Judge Mary K. Wagner". Once the new screen comes up, click on "Is she just?" Look at pages 2-5, which are the ONLY pages stapled into the contents of this appeal that was filed in the Wisconsin Supreme Court. You have the entire appeal if you have those extra pages and if you are reading this document on my website. Exhibit A - is the document where Attorney Tommy explains how my income was fabricated.

**NOTE:** Once again, I did NOT ask the Court of Appeals, NOR do I ask this Court to determine if a mistake was made. The entire appendix is only to show a little bit about the mistake, NOT for this court to evaluate if there should be corrections made. Judge Warren stated that he is not allowed to correct mistakes. That decision of his is the ONLY thing I am appealing in the higher courts. **DOES THE LAW, STATUTES, AND THE U.S. CONSTITUTION ALLOW THE CIRCUIT COURT JUDGE TO CORRECT PREVIOUS MISTAKES IF THE COURTS AND OPPOSING ATTORNEY CONCOCTED AND FABRICATED AN EGREGIOUS ERROR?**

EXHIBIT B - THE DECEPTIVE TALE OF A LIAR, (ATTORNEY)

I printed Exhibit A on paper. I sent Attorney Tommy a copy of it. At the court hearing of January 20, 2012, I gave Attorney Tommy Anderson, Jr. another copy of the Exhibit. When I handed the Judge a copy of the same Exhibit, the judge questioned Tommy on it. The following is a direct reprint of the transcript of what was said in the courtroom. Notice the lies! I will explain after this insert. (in parenthesis are my additions)

*Court:* . . "Mr. Anderson, but in arriving at the \$40,000 number, can you tell me how that was arrived at?"

*Mr. Anderson:* "I don't have the complete file, Judge, but I can tell you that what was arrived at was a Schedule C gross income off of Schedule C and adding back **accelerated** depreciation."

*Court:* "Gross plus depreciation."

*Mr. Anderson:* "Looking at the basic Schedule C, **2010**, it would have been taking line 31 - well, excuse me - **Line 29** and adding back (**accelerated**) depreciation. You'll notice in Mr. Tocholke's tax returns, he's learned that ultimately the courts typically add back non-cash expenses in terms of depreciation (**?**), and there's no depreciation being deducted for any of these years now. So it would have been gross **tentative** profit adding back (**?**) depreciation. And it came close, if my memory serves me, to \$40,000. And that's what the Commissioner used, **and that's what we used**. And this is the part that always amazes me because I've been through this how many times now? **This was not contested. No court has made a determination** as to what Mr. Tocholke's income was or wasn't when this original support order was entered because it was stipulated to, Judge.

Please compare Exhibit A with what was just stated. The IRS, banks, and what the courts are supposed to use, is adding back into the AGI the (standard) depreciation. Notice how Mr. Anderson said (slip of the tongue) **accelerated** depreciation, because he then could concoct/fabricate a MUCH larger income.

**NEXT LOOK AT HOW HE LIED AT WHICH LINES WERE USED!!** The judge asked him how it was calculated, look how he diverted to **2010**

instead of using the original 2001 tax forms which they zealously demanded.

Mr. Anderson does NOT have a license to practice accounting, neither do most Judges. There is the need to know the basics of accounting to figure out what gets used in calculating child support. **DEPRECIATION IS A REFLECTION OF PAYMENTS MADE ON EQUIPMENT.** A person does NOT deduct the monthly payments they make to the place which financed their equipment. In fact, the payments NEVER get deducted, BUT ONLY THROUGH DEPRECIATION. So for Mr. Anderson to say that depreciation is a "non-cash expense" would either mean that he is an idiot and does NOT know how it all works, or he is deceptive in trying to swindle the courts into believing that depreciation is a total profit deduction without the buyer having any expense which would reflect for its Schedule C use.

Please also notice how Mr. Tommy Anderson lied that income was NEVER **determined** by the court since everything was done by stipulation. Why is the egregious \$40,000 in the same paragraph then? They concocted and fabricated that number, and then used that to make up their stipulation. Did you read how he admitted that he used that amount, and then three sentences later lies that income was NOT used. Re-read it in the insert.

Since when does the court use **"tentative"** gross profit, instead of AGI?

Mr. Anderson made a statement that the \$40,000 was NEVER **contested**. What about Exhibit A? He had several copies of it. I fantasize about getting the chance for a jury trial where it would be my duty to prove that Tommy Anderson lied. I have enough evidence to get him executed. ☺ I listed some here.

**HOWEVER,** I AM NOT ASKING THIS COURT TO SEE IF HE LIED, OR IF A MISTAKE WAS MADE. **I AM ASKING THIS COURT TO MAKE A DECISION IF A CIRCUIT COURT JUDGE HAS NOT ONLY THE RIGHT BUT THE DUTY TO CORRECT ANY EGREGIOUS MISTAKES OF THE PAST IF THE COURT AND THE OPPOSING ATTORNEY FABRICATED A DECEPTIVE AND ERRONEOUS INCOME SCHEME.**