

SUPREME COURT OF WISCONSIN

CASE No. : 01-2591-CR

COMPLETE TITLE :

State of Wisconsin,
Plaintiff-Appellant,
v.
Jeremy T. Greer,
Defendant-Respondent.

ON CERTIFICATION FROM THE COURT OF APPEALS

OPINION FILED: March 25, 2003
SUBMITTED ON BRIEFS:
ORAL ARGUMENT: January 21, 2003

SOURCE OF APPEAL :

COURT: Circuit
COUNTY: Milwaukee
JUDGE: William D. Gardner

JUSTICES :

CONCURRED:
DISSENTED:
NOT PARTICIPATING: WILCOX, J., did not participate.

ATTORNEYS :

For the plaintiff-appellant there were briefs and oral argument by *David J. Becker*, assistant attorney general, with whom on the brief was *James E. Doyle*, attorney general.

For the defendant-respondent there was a brief and oral argument by *Donna L. Hintze*, assistant state public defender.

2003 WI 20

NOTICE

This opinion is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 01-2591-CR
(L.C. No. 01 CF 1746)

STATE OF WISCONSIN

:

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FILED

MAR 25, 2003

Cornelia G. Clark
Clerk of Supreme Court

APPEAL from an order of the Circuit Court for Milwaukee County, William D. Gardner, Judge. *Order granting certification vacated and cause remanded to the Court of Appeals.*

¶1 PER CURIAM. The court is equally divided on whether to affirm or reverse the judgment of the circuit court for Milwaukee County. Chief Justice Shirley S. Abrahamson, Justice Ann Walsh Bradley, and Justice David T. Prosser would affirm. Justice William A. Bablitch, Justice N. Patrick Crooks, and Justice Diane S. Sykes would reverse. Justice Jon P. Wilcox did not participate.

¶2 When a certification or bypass results in a tie vote by this court, the better course of action is to vacate our decision to accept certification or bypass and remand the cause to the court of appeals. State v. Watson, 209 Wis. 2d 281, 562 N.W.2d 151 (1997) (remanding to court of appeals on a tie vote on certification); State v. Richard Knutson, Inc., 191 Wis. 2d 395, 396-97, 528 N.W.2d 430 (1995).

¶3 Accordingly, we vacate our order granting certification and remand to the court of appeals.

By the Court.—The order granting certification is vacated and the cause is remanded to the court of appeals.

