## SUPREME COURT OF WISCONSIN

Case No.:	97-3238-W
Complete Title of Case:	
	State of Wisconsin ex rel. James D. Luedtke, Petitioner, v. Daniel Bertrand, Respondent-Petitioner.
	ON REVIEW OF A DECISION OF THE COURT OF APPEALS Reported at: 220 Wis. 2d 574, 583 N.W.2d 858 (Ct. App. 1998, Published)
Opinion Filed: Submitted on Briefs: Oral Argument:	May 28, 1999 April 8, 1999
Source of APPEAL COURT: COUNTY: JUDGE:	Circuit Dane Gerald C. Nichol
JUSTICES: Concurred: Dissented: Not Participating:	Wilcox, J., did not participate.

ATTORNEYS: For the respondent-petitioner the cause was argued by Jody J. Schmelzer, assistant attorney general, with whom on the briefs was Charles D. Hoornstra, assistant attorney general and James D. Doyle, attorney general.

For the petitioner there was a brief by Stephen M. Compton and Brennan, Steil, Basting & MacDougall, S.C., Janesville and oral argument by Stephen M. Compton.

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

IN SUPREME COURT

FILED

MAY 28, 1999

Marilyn L. Graves Clerk of Supreme Court

Madison, WI

## No. 97-3238-W

## STATE OF WISCONSIN

State of Wisconsin ex rel. James D. Luedtke,

Petitioner,

v.

Daniel Bertrand,

## Respondent-Petitioner.

REVIEW of a decision of the Court of Appeals. Affirmed.

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¶1 PER CURIAM. The court is equally divided on whether to affirm or reverse the published decision of the court of appeals, <u>State ex rel. Luedtke v. Bertrand</u>, 220 Wis. 2d 574, 583 N.W.2d 858 (Ct. App. 1998). Chief Justice Shirley S. Abrahamson and Justices Ann Walsh Bradley and David T. Prosser would affirm; Justices Donald W. Steinmetz, William A. Bablitch and N. Patrick Crooks would reverse. Justice Jon P. Wilcox withdrew from participation.

 $\P 2$  Accordingly, the decision of the court of appeals is affirmed.

By the Court.-The decision of the court of appeals is affirmed.

1