

SUPREME COURT OF WISCONSIN

Case No.: 99-0554

Complete Title
of Case:

State of Wisconsin,
Plaintiff-Respondent,
v.
David M. Hahn,
Defendant-Appellant.

MOTION FOR RECONSIDERATION

2000 WI 118

Reported at: 238 Wis. 2d 889, 618 N.W.2d 528

Opinion Filed: February 9, 2001

Submitted on Briefs:

Oral Argument:

Source of APPEAL

COURT:

COUNTY:

JUDGE:

JUSTICES:

Concurred:

Dissented:

Not Participating:

ATTORNEYS:

NOTICE

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

No. 99-0554-CR

STATE OF WISCONSIN

:

IN SUPREME COURT

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FILED

FEB 9, 2001

**Cornelia G. Clark
Clerk of Supreme Court
Madison, WI**

¶1 PER CURIAM. (*on motion for reconsideration*). The State of Wisconsin, plaintiff-respondent, moves the court to reconsider the following sentence in paragraph 28 of its opinion in State v. Hahn, 2000 WI 118, 238 Wis. 2d 889, 618 N.W.2d 528: "If the offender has no means available under state law or is unsuccessful in challenging the prior conviction, the offender may nevertheless seek to reopen the enhanced sentence." The State contends this sentence raises the question of what justification would exist for the defendant to seek to reopen the enhanced sentence if the defendant had unsuccessfully challenged the prior conviction.

¶2 To clarify the original Hahn opinion, we now modify the sentence quoted above to read as follows:

If the offender has no means available under state law to challenge the prior conviction on the merits, because, for example, the courts never reached the merits of this challenge under State v. Escalona-Naranjo, 185 Wis. 2d 168, 517 N.W.2d 157 (1994), or the offender is no longer in custody on the prior conviction, the offender may nevertheless seek to reopen the enhanced sentence.

¶3 The motion for reconsideration is denied without costs.

