

**COURT OF APPEALS
DECISION
DATED AND FILED**

October 8, 1998

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

No. 97-2929

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

CORI E. JEFFERS,

DEFENDANT-APPELLANT.

APPEAL from an order of the circuit court for Vernon County:
MICHAEL J. ROSBOROUGH, Judge. *Affirmed.*

DYKMAN, P.J. Cori R. Jeffers appeals *pro se* from an order vacating a stay of her sentence for resisting an officer, contrary to § 946.41, STATS. She asserts that the Fourth Amendment to the United States Constitution vitiates her conviction. We conclude that because this court has already addressed these issues in a prior appeal, Jeffers may not raise them again. We therefore affirm.

The facts of this case are found in *State v. Jeffers*, No. 97-0692, unpublished slip op. (Wis. Ct. App. July 31, 1997). On June 16, 1996, Jeffers was involved in an altercation with police. She was prosecuted for battery to a police officer and resisting an officer. Her defense was that because the arresting officers had unlawfully arrested her husband in their home, her subsequent arrest outside the home was unlawful. The trial court rejected this defense. While the jury found Jeffers not guilty of battery, they found her guilty of resisting an officer. The court sentenced her to, among other things, ten days in jail. She appealed and was granted a stay of the jail sentence. In a single-judge opinion dated July 31, 1997, Judge Vergeront affirmed Jeffers's conviction and rejected Jeffers's assertions that the Fourth Amendment precluded her conviction.

On September 15, 1997, the trial court held a hearing to determine whether to lift the stay. Jeffers filed several documents that the court construed to be a motion for postconviction relief under § 974.06, STATS. The court denied the motion and lifted the stay, permitting the defendant to serve her jail sentence in La Crosse County if she could arrange to do so. However, the court concluded that Jeffers was stalling. Jeffers asserted that she had that right, but the court disagreed. Jeffers appealed the order vacating the stay.

Jeffers's briefs do not address the issue or issues raised at the September 15, 1997 hearing. Instead, she again asserts that the Fourth Amendment and the Equal Protection Clause of the United States Constitution require that her conviction be overturned.

Jeffers has had her day in court and has had an appeal. A jury and two judges have rejected her assertions. She is not entitled to an endless series of

appeals. Simply stated, unless Jeffers files a timely petition for review of this decision with the supreme court,¹ her case is over.

Jeffers is attempting the same sort of repetitive litigation that was attempted by the defendant in *State v. Escalona-Naranjo*, 185 Wis.2d 168, 517 N.W.2d 157 (1994). The Wisconsin Supreme Court decided, in that case, that a person convicted of a crime must raise all constitutional claims that could be raised on direct appeal. *Id.* at 181, 517 N.W.2d at 162. The only exception would be if a sufficient reason was given to bring a constitutional issue in a subsequent motion. *See id.* Jeffers has failed to suggest any reason for not previously raising these issues. Thus, even if her present assertions vary from the assertions in her previous appeal, we will not consider them. *Id.* Nor will we now consider issues identical to those raised on her prior appeal. A party is only entitled to one appeal. *See generally Culbert v. Young*, 140 Wis.2d 821, 825, 412 N.W.2d 551, 553-54. We therefore affirm the trial court's order of September 15, 1997.

The State's brief in this appeal consists of 375 words, is about one page in length, and contains no citations to authority, no history of the case, no reference to the order from which Jeffers has appealed, and no indication that this is a second appeal raising the same or similar issues as the first appeal. Instead, the State asserts that Jeffers was not the victim of an illegal search or seizure.

The State's brief assists us no more than if the State failed to file a brief. We have held that unsupported appellate argument is inadequate, and that if made by an appellant, we will refuse to consider it. *State v. Shaffer*, 96 Wis.2d

¹ Federal court review is also possible, though standard of review considerations make success problematic.

531, 545-46, 292 N.W.2d 370, 378 (Ct. App. 1980). In the past, we have summarily affirmed for failure to file a brief, and there is no reason why similar rules should not apply to the State's brief when it is a respondent. We have also referred inadequate briefs to the State Board of Attorneys Professional Responsibility to consider whether the person preparing the brief has violated SCR 20:1.1. We anticipate that the State's briefs will be more helpful in the future.

By the Court.—Order affirmed.

Not recommended for publication in the official reports. *See* RULE 809.23(1)(b)4, STATS.

