

**COURT OF APPEALS
DECISION
DATED AND FILED**

December 30, 2003

Cornelia G. Clark
Clerk of Court of Appeals

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 WIS. STAT. § 808.10 and RULE 809.62.

**Appeal Nos. 03-0769
03-1174**

Cir. Ct. No. 02CV001811

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

STATE OF WISCONSIN EX REL. PETER GALOWSKI,

PETITIONER-APPELLANT,

V.

STEPHEN PUCKETT AND JON LITSCHER,

RESPONDENTS-RESPONDENTS.

APPEAL from orders of the circuit court for Dane County:
PATRICK J. FIEDLER, Judge. *Affirmed.*

Before Deininger, P.J., Dykman and Lundsten, JJ.

¶1 PER CURIAM. Peter Galowski, a Wisconsin prison inmate, appeals an order reversing a decision of the program review committee (PRC) of Redgranite Correctional Institution, and an order denying reconsideration. He contends that certain aspects of the administrative proceeding violated his due

process rights. That issue is moot. He also contends that the trial court erred by denying his motion for costs as the prevailing party. We disagree, and therefore affirm.

¶2 The PRC denied Galowski's request for a transfer from a medium to a minimum custody security classification. On certiorari review, Galowski challenged that decision, and contended that the PRC erroneously determined that he had not satisfied a Department of Corrections rule requiring him to have a pre-parole plan (PPI), from the parole commission, to establish eligibility for minimum security. Upon concluding that the record contained no reference to this alleged PPI determination, the trial court denied relief on that claim. However, the trial court reversed the PRC decision on other grounds, ordered a new hearing on Galowski's security classification, and held that Galowski was not entitled to costs under WIS. STAT. § 814.25.

¶3 On appeal, Galowski contends that the PRC violated his due process right to a meaningful review by failing to make an adequate record of its PPI determination. That issue is moot for two reasons. First, the trial court reversed the PRC's decision, rendering irrelevant any further consideration of this particular administrative proceeding. Second, the rule establishing the PPI requirement, that the PRC purportedly construed erroneously, no longer exists. Galowski concedes in his brief that "[t]he PPI issue is no longer a concern for Galowski ... since the repeal and revision of § DOC 302 [sic] which took effect on February 1, 2002." An issue is moot when its resolution cannot have any practical legal effect upon an existing controversy. *Milwaukee Police Ass'n v. City of Milwaukee*, 92 Wis. 2d 175, 183, 285 N.W.2d 133 (1979). That is the case here.

¶4 The trial court properly denied costs to Galowski. Galowski asserts that denying costs, under WIS. STAT. § 814.25, to prisoners who prevail against the State violates their right to equal protection. However, prisoners are not singled out in this regard. No class of litigants may receive costs when suing the State or its officers. See *State ex rel. Korne v. Wolke*, 79 Wis. 2d 22, 24-25, 255 N.W.2d 446 (1977). There can be no equal protection violation when there is no discrimination against a particular class of people. See *State v. Post*, 197 Wis. 2d 279, 318, 541 N.W.2d 115 (1995).

By the Court.—Orders affirmed.

This opinion will not be published. WIS. STAT. RULE 809.23(1)(b)5 (2001-02).

