

1 Mark Henning, Pro Se, denied effective assistance.
2 Inmate, Wood County Jail, 400 Market Street
3 Wisconsin Rapids, Wisconsin 54495

3 This Notice is [Http://www.lawyerdude.netfirms.com/7739.html](http://www.lawyerdude.netfirms.com/7739.html) and [Http://www.lawyerdude.netfirms.com/7739.pdf](http://www.lawyerdude.netfirms.com/7739.pdf)
4 Judge Counsell prematurely denied the 4 page version 0.900 and gave a copy to Mark in jail. Mark called
5 me. I then faxed the 10 page version 1.004 to the judge at 3:10 pm Wisconsin time on 7 June. There has
6 been no response to this 10 page version. That motion is This page is
7 [Http://www.lawyerdude.netfirms.com/7732.html](http://www.lawyerdude.netfirms.com/7732.html) and [Http://www.lawyerdude.netfirms.com/7732.pdf](http://www.lawyerdude.netfirms.com/7732.pdf)
8 List of all Mark Henning motions: <http://www.lawyerdude.netfirms.com/henning.html>

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**Circuit Court of Wisconsin for Wood County
Court of Judge John Counsell**

Circuit Court Branch II: Judge James M. Mason presiding. Office - (715) 421-8518
400 Market Street, Wisconsin Rapids, Wisconsin 54495
Clerk of Courts Office: 715-421-8490. Fax: 715-421-8691.
<http://www.co.wood.wi.us/courts/index.htm>

Craig Lambert
Asst. D.A. John Henkelman, 715-421- 8515,
Fax: 715-421-8426
dba under false color of law and legal fiction as a
an imaginary "person" called
"The state of Wisconsin"

Case Number: 03 CF 435
Document **#7739** Version 1.000

**Notice of Interlocutory Appeal.
Also, I need a suit for court.**

Proof of Service

v

Mark Henning, an actual citizen of the state of
Wisconsin.

Date: Friday 9 June 2006
Time: No known
Place: Courtroom of Judge John Counsell

**I have a constitutional right to a remedy. Dismissal here is the correct prophylactic
remedy to combat Taser Terrorism! They dismissed Rodney King's Taser Terrorism
ticket; dismiss mine! "We will appoint as justices, constables, sheriffs or bailiffs only
such as know the law of the realm and mean to observe it well." - Magna Charta.**

Notice of Application for Writ in the Nature of Interlocutory Appeal

I filed a notice of a Motion to Suppress Evidence Scheduled for 9 July. Judge Counsell
denied the motion prematurely. I have suffered through the ineffective assistance of several
lawyers. I paid La Chappelle. He filed nothing. Lawyer Bliss quit after a week. Lawyer Paul
Gatz quit. Now I have had success getting written action from a lawyer called "Lawyerdude".

I am not ready for trial. I waived my right to speedy trial.

I am now asking the court of appeal to enjoin the trial court from rushing me to trial.

I ask for time to brief the issue at the court of appeal

I ask the trial court to give me this time.

1 At the venue designated in the caption or at such other venue as the court shall
2 designate, I, Mark Henning, will notify the court orally affirming this Notice of Application for Writ
in the Nature of an Interlocutory Appeal - and exception to the final judgment rule.

3 Once again I demand the O.J. standard. He did an interlocutory appeal. So can I. I
4 intended to appeal my suppression motion but that motion was denied prematurely immediately
5 upon filing.

6 My lawyer has contacted the court of appeal in Madison and is preparing papers for
them. It is my understanding that this trial court loses jurisdiction when I file a notice of appeal.

7 Signed _____ Mark Henning. Thursday, June 8, 2006

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18 **Statement of the Case**

19 On Wednesday 7 June I received a written denial of version .900 of my motion 7732. This written
20 denial is premature; I had not even submitted the final version of my motion 7732. The preliminary version
was designed to give you a head's up. This Motion 7732 was set by my new lawyer for hearing on 6 July
and cannot possibly be denied before the hearing.

21 While the fax #7732 was sitting overnight at your fax machine, my lawyer upgraded it.

22 I demand the O.J. standard; I never once heard Judge Lance Ito say to Johnny Cochran
23 "Counsel, I am denying your motion. The trial will go forward even before you have had a chance to write
and file any more motions." No. We all saw the O.J. trial and we all know that Rodney King's drunk driving
24 case was dismissed because of police brutality.

25 What would Judge Lance Ito do?

26 The proper thing to do in my case is to set the matter for hearing on July 6 as indicated on the
caption. Vacate the trial date. Let me get my written statement from Vicky Smith and/ or depose her.

1 The trial cannot constitutionally go forward for these reason:

- 2 1. My lawyers failed to address the fundamental issues in this case until 6 June when Palaschak
3 filed the first written motion in my case.
- 4 2. Where a defendant has waived time it is reversible error (so I am guessing) to rush to trial before
5 the defendant has had opportunity to work his remedy for having been brutalized by police. As
6 stated herein, the Wisconsin Constitution gives me a right to a remedy.
- 7 3. To make it clear, I have now begun anew with a lawyer who has demonstrated an ability to file
8 written motions. Some of these issues are appealable by writ before trial. I am asking this court
9 to vacate the trial date to permit me to work my pre-trial remedies.
- 10 4. A written statement from Vicky Smith could preclude the need for a trial. I have a constitutional
11 right under Brady to discovery.
- 12 5. The court acts prematurely in denying my motion;
 - 13 a. Before it is written in final form;
 - 14 b. Before I have read it;
 - 15 c. Before giving me an opportunity to be heard in person on the motion.
- 16 6. An outrageous brutality such as occurred here justifies pre-trial dismissal. It is not, as Judge
17 Counsell said in his rash premature opinion, a matter for trial. No! It is a matter for pre-trial relief.
- 18 7. Some might say "Well, take it up on appeal." The answer is that I am entitled to due process at
19 all stages of the process. That is what the Supreme Court said in **Griffin v Illinois** in 1956.
20 <http://www.circuitlawyer.8m.com/griffin.html> 351 US 12. Skipping important constitutes a denial of
21 due process.

22 Today I submit an upgraded motion - version 1.004

23 Around 2:15 a.m. on the morning of Friday, November 21, 2003 (2.5 years ago) I was a
24 passenger in a van driven by the prosecution's main witness, Vicky Smith. Smith was very drunk. So
25 drunk that she quickly stopped the van to vomit. I also exited the van to pee. Police Officer Randl Jahns
26 parked near Vicky's parked van. He did not see anybody driving. He is not even sure that he saw the
27 same van being driving by anybody. When he arrived we were both out of the van. The van was parked.

28 **Accomplice testimony uncorroborated will not support a conviction in many states. The
corroboration must be more than the mere fact of drunk driving; it must point to who was driving.
This case would be thrown out in California pursuant to Penal Code 1111.**

Officer Randl Jahns mistakenly presumed that I had been driving. Vicky Smith apparently lied
and told him that I was driving - although there is no proof that anybody was driving absent the testimony
of my accomplice. Some states prohibit conviction upon the uncorroborated testimony of an accomplice.
Wisconsin is not one of those states.

Officer Randl Jahns then knocked me to the ground and handcuffed me. He is considerably
bigger than I am. Officer Brad Knapp arrived. The two officers sat me up. One held my handcuffed

1 hand behind me. The other spread my legs and tazered me in the crotch/ groin 3 times. Vicky Smith
2 witnessed this and yelled for them to stop - until they ordered her to shut up.

3 I filed a federal civil rights complaint in this regard.

4 Thereafter Jahns may have filed no police report.

5 The official reports unlawfully omit a report of this attack by Taser.

6 The police took me to the hospital to draw blood.

7 In the mean time they drove the drunk driver, Vicky, to her home and left her van parked there. I
8 speculate that they hoped that she would in exchange refrain from testifying for me regarding the Taser
9 attack.

10 At the hospital the police again attacked me with a Taser while I was handcuffed.

11 The court has set an unworkable bail for me.

12 My former lawyer La Chappelle denied me effective assistance. The court denied me substitute
13 counsel.

14 **Limited Waiver of My Right to a Speedy Trial**

15 I hereby waive my right to a speedy trial. This waiver waives as much time as is necessary for me
16 to fully effect the process that is due to me.

17 **Points and Authorities urging dismissal of this unprovable case.**

18 **Cases cited herein:**

19 **Griffin v Illinois** in 1956. <http://www.circuitlawyer.8m.com/griffin.html> 351 US 12. Page 3 of 4

20 **Foreign and more Progressive Statutes cited in this brief:**

21 **Provisions of The Magna Charta, U.S. Constitution and Wisconsin Constitution cited herein:**

22 "We will appoint as justices, constables, sheriffs or bailiffs only such as know the law of the
23 realm and mean to observe it well." - Magna Charta. Page 1 of 4

24 **Proof of Service**

25 On Thursday, June 8, 2006 I faxed this notice to Judge Counsell's court and to the prosecutor at
26 around 4:10 pm Wisconsin time. Thereafter I uploaded it so that Mark could print it from jail, ratify it and
27 deliver it to court in person Friday morning. - Douglas Palaschak