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Supreme Court of Wisconsin

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November 18, 2014

To:

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You are hereby notified that the Court has entered the following order:

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No. 2012AP2782-CR      State v. Chamblis L.C.#2011CF644

A petition for review pursuant to Wis. Stat. § 808.10 having been filed on behalf of defendant-respondent-cross-appellant-petitioner, Andre M. Chamblis, and considered by this court;

IT IS ORDERED that the petition for review is granted as to the following issues:

1. Where a defendant seeks to plead guilty or no contest to a charge of operating a motor vehicle while under the influence of an intoxicant (OWI), or with a prohibited alcohol concentration (PAC), does State v. Bangert, 131 Wis.2d 246, 389 N.W.2d 12 (1986) and due process principles require that the number of prior offenses that count for sentence enhancement be determined *prior* to entry of the defendant's plea?

2. Is a court of appeals' decision ordering remand to the circuit court with instructions to: (1) issue an amended judgment of conviction reflecting a conviction for operating with a PAC, as a seventh offense, and (2) hold a resentencing hearing, and impose a sentence consistent with the penalty ranges for a seventh offense, constitutionally impermissible under Bangert and due process principles where the defendant specifically entered a plea of guilty to PAC as a sixth offense, where the circuit court sentenced the defendant in accordance to proper penalties for PAC as a sixth offense, and where the defendant has already served the confinement portion of such sentence?

The parties should note that the second issue set forth above is hereby modified from that stated in the petition for review to omit the reference to double jeopardy protections.

IT IS FURTHER ORDERED that pursuant to Wis. Stat. §§ (Rules) 809.62(6) and 809.63, within 30 days after the date of this order the defendant-respondent-cross-appellant-petitioner must file a brief in this court; that within 20 days of filing the plaintiff-appellant-cross-respondent, State of Wisconsin, must file either a brief or a statement that no brief will be filed; and that if a brief is filed by the plaintiff-appellant-cross-respondent, within 10 days of filing the defendant-respondent-cross-appellant-petitioner must file either a reply brief or a statement that no reply brief will be filed; and

IT IS FURTHER ORDERED that in any brief filed in this court the parties shall not incorporate by reference any portion of their court of appeals' brief or petition for review or response; instead, any material in these documents upon which there is reliance should be restated in the brief filed in this court; and

IT IS FURTHER ORDERED that the first brief filed in this court must contain, as part of the appendix, a copy of the decision of the court of appeals in this case; and

IT IS FURTHER ORDERED that within 30 days after the date of this order, each party must provide the clerk of this court with 10 copies of the brief previously filed on behalf of that party in the court of appeals; and

IT IS FURTHER ORDERED that the allowance of costs, if any, in connection with the granting of the petition will abide the decision of this court on review.

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Diane M. Fremgen  
Clerk of Supreme Court