

**FILED**  
**03-22-2024**  
**Clerk of Circuit Court**  
**Manitowoc County, WI**  
**2005CF000381**

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March 22, 2024

Judge Anthony A. Lambrecht  
1010 S. 8th St.  
Manitowoc, Wisconsin 54220

Re: State of Wisconsin v. Steven A. Avery  
Case No. 2005CF381

Dear Judge Lambrecht:

The State has received a copy of Steven A. Avery's Wis. Stat. § 974.07 motion for additional scientific testing of certain evidence in the above-entitled matter. Jurisdiction over this case currently lies with the Wisconsin Court of Appeals, however, and this Court lacks statutory competency to rule on the motion.

On August 16, 2022, Avery filed a third Wis. Stat. § 974.06 motion. The motion was denied August 22, 2023, and Avery filed a notice of appeal in this Court August 24, 2023. On October 5, 2023, the record was transmitted to the Wisconsin Court of Appeals. The matter is currently in briefing in that court.

Once an appeal is pending and the record has been transmitted to the Wisconsin Court of Appeals, the circuit court's jurisdiction over the case ends. *Tietsworth v. Harley-Davidson, Inc.*, 2007 WI 97, ¶ 27, 303 Wis. 2d 94, 735 N.W.2d 418. A circuit court retains competency to proceed once an appeal is pending only in certain limited matters as articulated in Wis. Stat. § 808.075(4). Wis. Stat. § 808.075(3); *Hengel v. Hengel*, 120 Wis. 2d 522, 355 N.W.2d 846 (Ct. App. 1984) (*superseded in part by statute on other grounds*). In criminal cases, permitted circuit court actions are limited to those articulated in Wis. Stat. § 808.075(4)(g) unless the court of appeals remands the case for factfinding on a particular issue. Adjudication of a motion under Wis. Stat. § 974.07 is not among the actions a circuit court retains competency to proceed upon once an appeal is pending.

Jurisdiction over this case currently lies with the Wisconsin Court of Appeals and will remain so until remittitur issues or a remand occurs, returning the record to this Court. *Tietzworth*, 303 Wis. 2d 94, ¶ 27. Avery's motion is improperly filed and cannot be adjudicated at this time.

Sincerely,

A handwritten signature in black ink, appearing to read "Norman Gahn", with a horizontal line extending to the right.

Norman Gahn  
Special Prosecutor