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**‘Why do you keep harassing me?’: An Outagamie County judge controls defendants after sentencing**

*By Phoebe Petrovic, Mario Koran, Jack Kelly and Madeline Fuerstenberg / Wisconsin Watch and WPR*

Chris Kartsounes had heard enough of Outagamie County Circuit Judge Vincent Biskupic’s demands. In May 2017, at his sixth hearing after having already been sentenced — when a case would normally be over — Kartsounes lost his cool.

“I’m tired of this, your honor,” he said. “I’ve served my time. I’ve done everything I’m supposed to do … Why do you keep harassing me?” he asked, firing profanities at the judge.

After the outburst, Biskupic accused Kartsounes of drinking — a violation of the condition that he remain sober while out of jail. When Biskupic asked whether a breathalyzer would detect alcohol, Kartsounes said he did not know. The judge promptly sent him back to the county jail in Appleton, where Kartsounes would serve the nearly four months that remained on his 12-month sentence.

Just like dozens of defendants identified by Wisconsin Watch and WPR whose cases landed in Biskupic’s courtroom, Kartsounes, now 55, faced an uncertain future — one in which he didn’t know when his punishment, and the court’s control over his life, would end.

Experts say judges in Wisconsin have among the widest latitude in the country to impose fines, send defendants to jail or place someone on probation — an alternative that allows people to remain in the community so long as they stay crime-free and report to a probation agent.

Over the past seven years in at least 52 cases involving 46 defendants, Biskupic has used so-called review hearings to either monitor a defendant’s behavior or to push them to pay fines, fees or restitution, Wisconsin Watch and WPR found. These check-ins — not spelled out in state law — often involved defendants updating the judge on their lives and their progress toward meeting Biskupic’s conditions.

About two dozen legal experts consulted by Wisconsin Watch and WPR had a wide range of views about Biskupic’s use of review hearings. Some said the practice is legal, some called it a gray area and some said it has no basis in state law. Others had never heard of it before.

A Wisconsin Watch and WPR analysis shows Biskupic is by far the biggest practitioner in Wisconsin of review hearings that, as in Kartsounes’ case, are held after a person has been revoked from probation. After a detailed review of each case file, Wisconsin Watch and WPR found that in 29 cases, Biskupic held 142 such review hearings — more than twice as many as any other judge in Wisconsin between 2014 and 2020. Some attorneys with clients subjected to the practice refer to it as “probation to the court,” although that term is not defined in state law.

Wisconsin Watch and WPR also found:

* Biskupic ordered four defendants arrested for failing to show up for these legally dubious review hearings after their probation had been revoked.
* Biskupic had another four people arrested for failing to show up for review hearings aimed at collecting overdue fines, fees and restitution. Civil authorities generally handle such collection efforts — and have no power to issue arrest warrants.
* The judge also bypassed Outagamie County’s treatment courts, fashioning his own form of supervision that included a shifting set of demands that went beyond addiction treatment to include getting a high-school equivalency degree, following a landlord’s rules and getting a “better job.”

For some defendants, the arrangement feels beneficial, allowing them to close their cases early or avoid more jail time.

Others see risks: The lack of structure — including criteria for which cases are eligible for this option, an explanation of the arrangement’s purpose and a clearly outlined calendar of how long supervision will last — creates uncertainty.

**Judge as ‘probation agent’**

More than half of the sentences identified by Wisconsin Watch and WPR came with a carrot and stick: If defendants attended treatment or got full-time work, Biskupic might close their cases early. If they failed to meet those conditions, they could be returned to county jail to serve the rest of their sentences.

In the remaining cases, Biskupic called people back to court, sometimes even after their sentences were served, to demand they make good on court-ordered payments — a task that is typically handled by the clerk of courts.

Nine months before Biskupic ordered Kartsounes to jail, the judge had sentenced him for bail jumping — a charge he got after drinking in violation of court-ordered sobriety. At the time, Biskupic offered what Kartsounes assumed was a deal: Successfully complete treatment for alcohol, and the rest of his jail time could be forgiven. Even Kartsounes’ attorney believed that was a possibility, court records show, though no formal agreement was ever struck.

Biskupic did not directly answer a set of 22 detailed questions about the use of these arrangements. Biskupic, a former Outagamie County district attorney and unsuccessful Republican candidate for state attorney general, was appointed to the bench in 2014 by then-Gov. Scott Walker. He was elected to a six-year term in 2015 and re-elected in April, both times unopposed.

In a statement, he said Wisconsin Supreme Court rules “limit a judge’s public comments on court cases.” Biskupic’s private attorney Daniel T. Flaherty of Godfrey and Kahn rejected the characterization of Biskupic’s actions as “probation to the court” or court supervision, saying the judge himself has not used these terms.

Flaherty cited two rulings from the [Wisconsin Court of Appeals](https://www.wicourts.gov/ca/opinions/96/pdf/96-0729.pdf) and [Supreme Court](https://www.courtlistener.com/opinion/2221828/state-v-magnuson/) that he said give Biskupic the authority to grant a jail inmate a temporary furlough to get alcohol or drug treatment.

However, Deja Vishny, a private defense attorney and adjunct professor at Marquette University Law School, said those holdings do not apply to the actions Biskupic has taken because they deal with a court’s ability to grant a furlough before sentencing. The stays Biskupic issued have come after sentencing.

Vishny told Wisconsin Watch and WPR that there are few situations in which a judge can stay a sentence, and “deciding that you’re going to be the probation agent for the person is not one of them.”

“(Biskupic) just has absolutely no authority to do what he’s doing,” she said.

**‘De facto’ probation**

For defendants like Kartsounes supervised by Biskupic, the arrangements look a lot like being on probation with the state Department of Corrections. In these cases, however, there is no probation agent. Defendants are answerable only to Biskupic. And he alone determines when his control over their lives will end, acting as judge, debt collector and, at times, counselor, court records show.

In an interview, Milwaukee County Circuit Judge Frederick Rosa, who has served 17 years on the bench, said he had never heard of such a practice.

“I don’t know of anybody imposing and staying a sentence that isn’t monitored by the (Wisconsin Department of Corrections) probation department,” said Rosa, who was named [Wisconsin Judge of the Year](https://www.wisbar.org/newspublications/insidetrack/pages/article.aspx?Volume=9&Issue=10&ArticleID=25622) by the State Bar of Wisconsin in 2017.

Dane County Circuit Judge John Hyland, who helped write the Criminal and Traffic Benchbook, the official how-to for Wisconsin judges overseeing criminal cases, said some of these practices do not appear to have a basis in state law. Hyland said he is not aware of any legal authority for a judge to use a stay to release people from jail, set conditions and monitor their behavior through review hearings — unless they are on state probation.

“I do not find any provision in the (sentencing statute) which provides jurisdiction over a person sentenced to jail,” Hyland wrote after reviewing several of the questioned cases at the request of Wisconsin Watch and WPR. “Technically, the person’s bail has ended upon being sentenced, even though a stay of the sentence has been granted for some period of time. Given that, I do not know what authority would permit review hearings or continued court appearances.”

In 2000, the Court of Appeals [ordered a defendant resentenced](https://www.wicourts.gov/ca/opinion/DisplayDocument.pdf?content=pdf&seqNo=16171) after finding such an arrangement exceeded the judge’s authority. In that case, an appellate judge found the Barron County Circuit Court judge “did not have the authority to indefinitely stay the execution of (the defendant’s) sentence,” and could not create a “ ‘de facto’ probation” by staying a defendant’s jail time to monitor her progress in alcohol treatment.

The appeals court also ruled that allowing the defendant to potentially avoid serving her sentence entirely was outside the lower court judge’s discretion, saying, “This type of authority is more akin to the governor’s authority to commute a sentence or to pardon.”

But since it was an unpublished opinion, the decision did not set a precedent that other Wisconsin judges must follow.

Flaherty, Biskupic’s attorney, responded that “each file has its own unique facts for a trial court judge to consider.” He noted that the 2000 appeals court ruling has “no binding authority on trial court judges.”

Wisconsin Watch and WPR found one case in which a person avoided serving their full sentence after satisfying Biskupic’s conditions. In May 2015, a man received 10 months in jail for disorderly conduct with domestic abuse and repeater modifiers after getting his probation revoked. Biskupic allowed him to serve the first four months with work release privileges and stayed the remaining six pending a review hearing. By December of that year, after the man paid his fines and attended counseling, Biskupic discharged the remaining six months of jail time because he considered the “conditions completed,” according to court records.

But for some defendants, these hearings in Biskupic’s courtroom were not merely an annoyance. Biskupic sometimes issued arrest warrants for people who failed to appear at his review hearings, and some were required to post cash bail of up to $579. Wisconsin Watch and WPR found that Biskupic ordered eight people arrested for failing to show up for review hearings.

Although Outagamie County has several treatment courts — where a judge monitors defendants to make sure they go to counseling and pass alcohol and drug screenings — Kartsounes’ case and dozens of others were not part of any formal program.

Former state public defender Brandt Swardenski said he has explained to clients appearing before Biskupic that entering these supervisory arrangements with the judge can be a “benefit,” but that they are “stepping into a sort of gray area of the law, and so you’ve got to understand by getting this benefit, you’re subjecting yourselves to further consequences down the line.”

**Repeated ‘review hearings’**

Kartsounes completed treatment, with court records showing he received “maximum benefit” from the program. He even stayed at the treatment facility for several extra months. Still, Biskupic refused to close the case. And after the outburst, he sent Kartsounes back to jail to serve the sentence Kartsounes had been trying to avoid.

In the seven months since letting Kartsounes out of jail, Biskupic called him back again and again for review hearings, each time with the penalty of arrest if he failed to show.

After Kartsounes completed treatment, Biskupic wanted to see proof of stable residence and continued treatment — then, court transcripts show, the judge would be “content” to close the case. A physical disability made it hard for him to find work, Kartsounes said. He was living in a motel, afraid of signing a lease he would not be able to fulfill if he went back to jail.

These conditions were not part of Kartsounes’ sentence but tacked on later as Biskupic continued supervising the case long after most Wisconsin judges would have closed it.

**Stayed sentences, lengthy supervision**

One practice Biskupic uses to supervise defendants is to stay a sentence — a mechanism judges can use to postpone or pause a term of incarceration. With a jail sentence hanging overhead, Biskupic required people to fulfill any number of conditions he ordered, including remaining sober, obtaining a GED or applying for jobs. Biskupic assessed their compliance and determined whether he would allow them to remain on the stay at periodic review hearings in his courtroom.

In extensive correspondence, Flaherty defended Biskupic’s approach to the cases identified by Wisconsin Watch and WPR, saying prosecutors did not object to the sentences, and that defendants did not appeal their cases — suggesting the practice is not problematic. But Wisconsin Watch and WPR’s review of more than four dozen court cases showed that defense attorneys and prosecutors did sometimes question the propriety of these arrangements.

In a written statement, Biskupic said stakeholders within the Outagamie County criminal justice system — including attorneys, social workers and jail staff — have sought opportunities for defendants and inmates to access treatment for drugs and alcohol or mental health needs in response to a 10-year rise in criminal cases related to substance abuse.

The court considers available options upon sentencing, he said, including “stipulations from the attorneys for clients to enter local treatment programs while on temporary furlough from the county jail.”

Biskupic added: “In the last seven years, the Branch 6 Court (Biskupic’s court) has not had any trial court decisions reversed by the Wisconsin Court of Appeals or the Wisconsin Supreme Court.”

The state public defender’s office, whose attorneys have represented defendants in these atypical arrangements with Biskupic, acknowledged that the sentences “may appear unusual, and may not have worked the way every client thought it would,” but said it is public defenders’ duty to explore the best option available to each client.

“As counterintuitive as it might seem, for some of our clients, formal probation is more difficult than most other sentences, including a term of imprisonment,” spokesman Willy Medina said in a statement. “If a judge exercises his or her discretion at sentencing, our job is to describe the ramifications to the client, both positive and negative, and ultimately do what the client chooses.”

**Deal with Biskupic brings regrets**

In September 2015, Biskupic sentenced Charles Joe Reuter IV, to nine months in jail. In December of that year, Biskupic paused his sentence in the same way he did with Kartsounes, so Reuter could attend treatment for substance abuse. Although Reuter attended multiple treatment programs, he relapsed several times. Eventually, after Reuter failed to complete another treatment program, Biskupic authorized a court order for his arrest, sending him back to jail to sit the remainder of his sentence for battery and domestic abuse.

All told, Biskupic did not close Reuter’s case untilFebruary 2018. Had Reuter just served his jail sentence to begin with, he’d have been free about two years earlier, court records show.

Reuter said in an interview he didn’t realize how much the stay extended his overall case. He said he felt Biskupic, whom he described as a “caring judge,” was “trying to do what was best at the time.”

But would he accept an arrangement like this again? “Oh no, definitely not. Nope.”

Other people, like Kartsounes, ended up entangled with Biskupic’s supervision for months or years longer than the case would have lasted had they just served the initial jail sentence.

For example, Biskupic temporarily released Kartsounes from jail so he could attend the treatment program, supervised him for almost eight months and then sent him to jail, where he remained until September 2017. Had Kartsounes just served his time in lock up, he’d have been done more than six months earlier than he was released, according to court records and information from the Outagamie County Jail.

**Court authority questioned**

Wisconsin Watch and WPR’s analysis found Biskupic held 142 review hearings with defendants who had been sentenced after getting revoked from probation — more than twice as many as any other circuit court judge in Wisconsin from 2014 through 2020.

And it is unclear whether judges have the authority to supervise defendants in this manner.

Most at issue is for how long and for what reasons judges like Biskupic can stay jail time. Stays postpone or pause sentences. Biskupic issued them to allow people to remain in the community and complete court-ordered conditions.

[State statute](https://docs.legis.wisconsin.gov/statutes/statutes/973/15/8/a) lists three scenarios in which a judge may stay “a sentence of imprisonment”: placing someone on probation; for any length of time up to 60 days; or for “legal cause.” The Wisconsin Supreme Court [said in 1998](https://www.courtlistener.com/opinion/2061861/state-v-szulczewski/) that, “A stay for the purpose of personally accommodating a defendant, however, is not a stay for legal cause.” Biskupic’s use of stays, which court documents show he sometimes interchangeably refers to as “furloughs,” are far more expansive than the 60-day limit, sometimes stretching on for years.

“It is a little bit gray whether or not courts have the authority to do that,” said Cecelia Klingele, a law professor at the University of Wisconsin-Madison.

“Wisconsin law alludes to the inherent authority of the court over its sentence, but it has not been fleshed out fully in case law, sort of, what are the outer bounds of that power,” she said.

**‘Inherent power of the court’**

Several judges interviewed by Wisconsin Watch and WPR, though, backed Biskupic’s actions. Brown County Circuit Judge Donald Zuidmulder acknowledged there’s no specific state law spelling out this type of judicial supervision. But he believes it’s legal because it’s an “inherent power of the court.”

Judge Mitchell Metropulos, Biskupic’s colleague in Outagamie County Circuit Court, agreed.

“I’ve done this in the past where I’ll impose a jail term, but I would allow a portion of that jail term to be stayed if they go in through a treatment program,” he said. “I think the court has the authority to supervise a sentence, and I don’t think there’s any limitations as to how long that would last.”

Metropulos added, “I am not aware of any cases that have prohibited this practice. I’m sure we would have been made aware of such a case if it was out there.”

However, the Wisconsin Judicial Benchbook warns that a judge “has no inherent power to stay (a) sentence” — except when a defendant seeks an appeal.

This isn’t the first time Biskupic has leaned into gray areas of the law. As Outagamie County district attorney in the mid-1990s and early 2000s, he agreed not to bring charges against people if they made donations to a private “crime prevention fund” he controlled.

A 2002 investigation by the Wisconsin State Journal exposed Biskupic’s practice and, through interviews with judges and law professors, explored how it created a two-tiered system of justice, enabling the wealthy to buy their way out of punishment. One man who paid an $8,000 donation said the deal felt like he had been “shaken down.”

Soon after, Biskupic lost his bid for Wisconsin attorney general and the Wisconsin Ethics Commission condemned him for his conduct and warned other prosecutors against the practice. In 2008, lawmakers officially [amended state law](https://docs.legis.wisconsin.gov/2007/related/acts/84) to make the practice illegal.

**Injury leads to addiction**

Kartsounes remembers the 1980s as the golden decade, the peak of rock ‘n’ roll, motorcycles and indulgent parties. An era, he said, that boiled down to one motto: “Big hair, don’t care.”

Kartsounes grew up in Appleton, the second-oldest of four children and an avid guitar player. By day, Kartsounes put on a collared shirt, tied his hair in a ponytail and headed to a 9-to-5 job working with computers and electronics. By night, he played local bars and jam nights. Friends called him Oz, a nod to bat-biting rock star Ozzy Osbourne. The nickname matched his stage persona.

In 2001, the party officially ended with a freak landscaping accident. Working on his house, Kartsounes climbed to the top of a tree to trim a dead limb when he slipped and tumbled to the ground. He broke both of his heels when he hit the ground — an injury that caused lifelong pain and a shuffling gait. Kartsounes said he became dependent on the pills doctors prescribed for the pain.

“If you’re taking handfuls of pain pills every day, you’re going to be physically addicted to them like a dog,” he said.

Kartsounes said he got by with the help of opiates for about 12 years, until the morning he woke up inexplicably paralyzed. He had protein in his blood and a number of other health complications, he said. Homebound and immobilized, Kartsounes drank from morning until night, and often in between. If he woke before dawn, he’d pour a glass of whiskey, he recalled. On at least one occasion, according to court transcripts, his blood-alcohol content registered above 0.42% — a level of intoxication that can lead to coma or death.

Chaos and legal trouble followed.

His first serious offenses came in 2013. As he remembers, he was awakened by two men who entered his house without permission. Confused and angry, Kartsounes says he pulled out a pistol and demanded the men leave. The gun discharged and police came, resulting in several charges, including intoxicated use of a firearm. He was later convicted and placed on probation with the state DOC. Then in 2014, he was arrested on suspicion of operating while intoxicated — his fourth OWI.

Out on bail, the court admonished Kartsounes to abstain from drinking. If caught, he would face a new charge for bail jumping. Which is exactly what happened in November 2014, after Kartsounes’ mother found him unconscious and bleeding from the nose. She called for medical help, but police officers also responded. After Kartsounes received medical treatment at a local hospital, he was arrested and charged for violating terms of his bail.

**‘Indefinite’ court supervision**

In October 2016, Kartsounes ended up in Biskupic’s courtroom, where he was convicted of bail jumping. At the hearing, Kartsounes’ attorney floated the idea of forgiving his jail sentence if he completed a treatment program. While court transcripts obtained by Wisconsin Watch and WPR do not show an explicit agreement between the court and Kartsounes that he could avoid some jail time if he graduated from a treatment program, Biskupic indicated it would be possible to do so.

But after Kartsounes completed the program and returned to court, Biskupic imposed other conditions: Provide proof of a permanent residence and continued aftercare treatment.

“I need to know, before I say we’re going to close out the file, that you’re living somewhere other than a hotel, that you have structure set up, and that there’s at least some period of time that you show me ‘I’ve got an apartment’ or ‘I’m staying with my dad,’ ‘I’m going to AA meetings and there’s some stability,’ ” Biskupic told Kartsounes at a review hearing on April 20, 2017.

“Then I would be content,” Biskupic said.

During that hearing, Kartsounes expressed concerns that the ongoing review hearings were making it difficult to find stability in life, according to court records.

“I need to be able to not have all these restraints on my life and try to live a normal life here, your honor,” Kartsounes told Biskupic at the hearing. “I need to sink or swim, and I need to be able to do things as a normal person.”

The judge scheduled another review hearing for a month later. That’s when Kartsounes lost his composure, and Biskupic sent him back to jail. The judge accused him of drinking before court. Kartsounes denied it.

“That’s a lie,” Kartsounes said in an interview. He admitted to drinking on one occasion while in treatment, a relapse Biskupic knew about but for which he did not send Kartsounes to jail. But Kartsounes maintains he did not drink before court that day — but said that even if he had, he should not have been under Biskupic’s supervision.

“I shouldn’t have been in court that day in the first place. My sentence was over,” Kartsounes said.

Back in lockup, Kartsounes began writing letters to the judge from inside Outagamie County Jail.

“If I had known you wanted me on an indefinite term of court-ordered supervision instead of the agreement we had to dismiss my sentence once I graduated from treatment successfully, I would not have agreed,” Kartsounes wrote.

**‘He wants to monitor that growth and change’**

Amanda Skorr is a private defense attorney and former public defender in Appleton. Court records show she has objected to Biskupic’s continued supervision of a client at least once, arguing the court lacked “jurisdiction” because “probation has expired.” This took place at a bail hearing for a client usually represented by her state public defender colleague, Swardenski.

The client was arrested after missing two review hearings related to a temporary stayBiskupic issued to allow him to attend treatment and “get a better job,” according to court records. The judge issued that stay after the client’s probation had been revoked. Flaherty, Biskupic’s attorney, pointed out that the lead attorney on the case, Swardenski, did not follow up on Skorr’s objection when he reappeared with his client.

In an interview, Skorr said she believes Biskupic is supervising defendants because he wants to help them and “make the world better.”

“I truly do believe that the motivation behind that is because he wants to see people grow and change, and he wants to monitor that growth and change,” Skorr told Wisconsin Watch and WPR.

Others agreed with Skorr. Even Kartsounes’ mother believes Biskupic was trying to help. She wrote a letter to the judge to thank him “for saving Chris’ life for now.”

Kartsounes views it very differently. He said his case with Biskupic only accelerated a downward spiral that resulted in more alcohol-related charges and eventually landed him in prison.

In 2019, he was sent to state prison, where he remained for two years. He said he spent much of that time in solitary confinement — his only means of entertainment and self-improvement coming from the two library books he could check out each week.

In March 2021, he was released from prison, returning to the same reality he left. As of May 2021, he was staying at a hotel in Appleton, looking for full-time work he can perform with his physical disability and searching for permanent housing. He continues to struggle with his mental health.

There have been bright spots, though. He reconnected with family members from whom he grew estranged during his time in prison and spoke to his brother for the first time in years. Glimpses of the old Chris have started to emerge, his brother said.

“I’m happy to hear some light come through as the days went by with our chats,” Pete Kartsounes said.

But Chris Kartsounes knows he has a long way to go. “This isn’t my life. It can’t be,” he said one night in tears. He acknowledged that aspects of treatment were helpful, but regrets the way it played out.

“I wish I would have just done my jail sentence and then gone into treatment,” he said. Instead, after getting help, he moved into a hotel, where he remained until his case was resolved.

“Biskupic left me no way to go forward. I couldn’t move, I couldn’t rent an apartment until this case was done,” Kartsounes said. “The system has ruined me.”

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