

Case Summary

Custodian of Records v. State (In re Doe)

680 N.W.2d 792 (Wis., 2004)

Subpoena Ordering Backup Tapes for All Government Servers Quashed For Being Overbroad

In a suit involving the criminal investigation of state legislators, the trial court issued a subpoena ordering the Legislative Technology Service Bureau (LTSB) to produce backup tapes for all 54 government computer servers, or alternatively, to extract all documents for certain named individuals. The order defined documents to include all digital computer information or data maintained by the LTSB, including, but not limited to, all electronic mail, electronic calendars, recycle bin files, temporary Internet files, and image files.

Decision

On appeal, the Wisconsin Supreme Court quashed the subpoena as being unreasonable because it was overly broad. The court held the subpoena as being overly broad because it compelled production of computer data from an entire branch of government rather than requesting specific topics, document types, or time periods. Furthermore, the court stated that because the documents that the plaintiffs sought were computer records "a key word search would not have been too difficult to incorporate into the subpoena."

Production of Electronic Documents