STATE OF WISCONSIN
COURT OF APPEALS
DISTRICT IV
Appeal No. 14-AP-982-CR

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

JAMIE R. ANDERSON,

Defendant-Appellant.

ON REVIEW OF A DECISION AND ORDER DENYING THE DEFENDANT'S PETITION FOR SENTENCE ADJUSTMENT, ENTERED IN THE MONROE COUNTY CIRCUIT COURT ON FEBRUARY 11, 2014, HON. MARK L. GOODMAN PRESIDING

BRIEF AND APPENDICES OF DEFENDANT-APPELLANT, JAMIE RUSSELL ANDERSON

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ISSUE PRESENTED

Did the circuit court err in concluding that Anderson was statutorily ineligible for sentence adjustment under Wis. Stat. § 973.195?

The circuit court concluded that Anderson was ineligible for sentence adjustment because he was not serving a Class C through I felony.

STATEMENT ON ORAL ARGUMENT AND PUBLICATION

Anderson does not request oral argument because the briefs will adequately address all relevant issues, but he does request publication because this case presents this Court with an opportunity to (1) contribute to the legal literature by collecting case law or reciting legislative history, and (2) decide a case of substantial and continuing public interest. *See* Wis. Stat. § 809.23(1)(a). For these reasons, Anderson has motioned the chief judge of the court of appeals to order that this case be decided by a three-judge panel, pursuant to Wis. Stat. § 752.31(3). Anderson welcomes oral argument if the Court deems it necessary.

STATEMENT OF THE CASE

On May 2, 2013, Jamie Anderson pled no contest to two counts of misdemeanor battery, as a repeater, contrary to Wis. Stat. §§ 940.19(1) and 939.62(1)(a) (2009-10) (60:1; App.A). On the same day, the court sentenced Anderson to two years imprisonment on each count, bifurcated into one year initial confinement and one year extended supervision

(60:1; App.A).[1] The court ordered the sentences to run concurrent to each other (60:2; App.A).

On January 29, 2014, after serving 75 percent of the confinement portion of each sentence, Anderson submitted two petitions for sentence adjustment, one for each count, (61:1, 62:1; App.B, App.C) and a "supplemental petition" (63:1-2; App.D) to the Wisconsin Department of Corrections (DOC) records office at New Lisbon Correctional Institution. DOC records office staff completed a verification of time served form for each of Anderson's petitions (61:2, 62:2; App.B, App.C) and forwarded the documents to the Monroe County Circuit Court.

The court received Anderson's sentence adjustment petitions and related documents on February 7, 2014 (64:1; App.E). The Monroe County District Attorney objected to Anderson's petition on February 10, 2014 (64:1; App.E), and on February 11, 2014, the court denied Anderson's petitions for sentence adjustment without a hearing (65:1-3; App.F). According to the written explanation attached to the order, the court denied Anderson's petitions for sentence adjustment because

> [t]he relief available under *sec. 973.195, Wis. Stats.,* is only available to those defendants who were convicted of Class C to Class I felonies. Since this defendant was convicted of misdemeanors and not convicted of any

[1] The base penalty for each count was up to nine months imprisonment. Wis. Stat. § 939.51(1)(a), (3)(a) (2009-10). As a repeater, Anderson's penalty was "increased to not more than 2 years." Wis. Stat. § 939.62(1)(a) (2009-10). Under Wis. Stat. §§ 973.02, 973.01(1), and 973.01(2)(b)10. (2009-10), Anderson's enhanced misdemeanor sentence was required to be bifurcated and served in prison. *See also* ***State v. Lasanske***, 2014 WI App 26, ¶1, 353 Wis. 2d 280, 844 N.W.2d 417 (resolving the "vexing problem of how our trial courts may structure bifurcated sentences when the base penalty for a misdemeanor does not require bifurcation but an applicable enhancement does").

> Class C to I felony, he is ineligible to have his misdemeanor sentences adjusted under *sec. 973.195, Wis. Stats.*

(65:3; App.F).

Anderson was released from prison on February 25, 2014, after serving one year of initial confinement, and is currently serving the extended supervision portion of his sentence (68:1-2).

ARGUMENT

I. STANDARD OF REVIEW

This case presents a question of statutory interpretation, which appellate courts review de novo. ***State v. Tucker***, 2005 WI 46, ¶11, 279 Wis. 2d 697, 694 N.W.2d 926 (citing ***Meriter Hospital Inc. v. Dane County***, 2004 WI 145, 277 Wis. 2d 1, 689 N.W.2d 627). The primary goal of statutory interpretation is "to determine what the statute means so that it may be given its full, proper and intended effect." ***Tucker***, 279 Wis. 2d 697, ¶11. A reviewing court's analysis begins with the plain language of the statutory text, which must be judged in light of its textually manifest scope and purpose. ***Id.***; ***State v. Stenklyft***, 2005 WI 71, ¶7, 281 Wis. 2d 484, 697 N.W.2d 769. Additionally, context and the structure of the statute are important to meaning. ***State ex rel. Kalal v. Circuit Court for Dane County***, 2004 WI 58, ¶46, 271 Wis. 2d 633, 681 N.W.2d 110. Case law interpreting a statute is also relevant to the statute's plain meaning. ***Berkos v. Shipwreck Bay Condominium Ass'n***, 2008 WI App 122, ¶8, 313 Wis. 2d 609, 758 N.W.2d 215.

If the statute is clear on its face, the court need not consult extrinsic sources of interpretation and should apply

the statute using the common and generally accepted meanings of terms. ***Tucker***, 279 Wis. 2d 697, ¶11. However, if the text of a statute "leads to two equally reasonable interpretations," the court may then "turn to the statute's history and other extrinsic sources to guide [its] analysis." ***Id.***, ¶17.

II. ANDERSON WAS ELIGIBLE TO PETITION FOR SENTENCE ADJUSTMENT UNDER WIS. STAT. § 973.195 UPON SERVING 75 PERCENT OF THE CONFINEMENT PORTION OF HIS SENTENCE.

The circuit court's decision to deny Anderson's petition for sentence adjustment was based exclusively on the court's conclusion that sentence adjustment only applies to defendants convicted of Class C through I felonies (65:1-3; App.F). While Anderson argues that Wis. Stat. §§ 973.195(1r) and 973.01(1), as well as ***Tucker***, 279 Wis. 2d 697, ¶17, contradict the circuit court's conclusion, he also recognizes that Wis. Stat. § 973.195 is poorly drafted and ambiguous on multiple points, including the issue presented in this case. At its heart, Anderson's argument is simple: inmates serving bifurcated misdemeanor sentences, imposed under Wis. Stat. § 973.01, are eligible to petition for sentence adjustment under Wis. Stat. § 973.195 based on the clear language of these statutes, despite the statutory silence as to *when* they may petition. With respect to section 973.195's ambiguity, the history, purpose, and scope of the sentence adjustment provision, as well as the applicable case law, resolve any ambiguity in favor of eligibility after these inmates serve 75 percent of their prison sentences.

A. The Sentence Adjustment Statute Is Ambiguous As Applied To Inmates Serving Bifurcated Misdemeanor Sentences On The Issue Of *When* They May Petition.

Eligibility to petition for sentence adjustment is controlled by Wis. Stat. § 973.195(1r)(a), which provides in relevant part:

> Except as provided in s. 973.198, an inmate who is serving *a sentence imposed under s. 973.01 for a crime other than a Class B felony* may petition the sentencing court to adjust the sentence if the inmate has served at least the applicable percentage of the term of confinement in prison portion of the sentence.

(Emphasis added.) Section 973.01(1) of the Wisconsin Statutes requires a bifurcated sentence to be imposed

> whenever a court sentences a person to imprisonment in the Wisconsin state prisons for a felony committed on or after December 31, 1999, *or a misdemeanor committed on or after February 1, 2003*.

(Emphasis added).[2]

Thus, Wis. Stat. § 973.195(1r)(a) creates two basic eligibility requirements for sentence adjustment: (1) the inmate must be "serving a sentence imposed under s. 973.01 for a crime other than a Class B felony"[3] and (2) the inmate

[2] Under Wis. Stat. § 973.01(2), the initial period of confinement of a bifurcated sentence, by definition, must be served in prison.

[3] Inmates serving Class A felonies are also prohibited from petitioning for sentence adjustment under Wis. Stat. § 973.195(1r)(a) because life sentences are imposed under Wis. Stat. § 973.014(1g) rather than Wis. Stat. § 973.01(1).

must serve "at least the applicable percentage of the term of confinement."

An inmate serving a bifurcated misdemeanor sentence is undoubtedly "serving a sentence imposed under s. 973.01." Wis. Stat. § 973.01(1). However, subsection 973.195(1g) fails to define the "applicable percentage" for misdemeanor offenses. Instead, subsection (1g) defines "applicable percentage" as "85% for a Class C to E felony and 75% for a Class F to I felony." As a result, the statutory text is silent as to *when* an inmate serving a bifurcated misdemeanor sentence may petition for sentence adjustment.

In ***Tucker***, the Wisconsin Supreme Court addressed Wis. Stat. § 973.195's application to a different group of inmates serving Truth in Sentencing (TIS) bifurcated sentences—inmates serving TIS-I felony sentences, which had yet to be reclassified under TIS-II. 279 Wis. 2d 697, ¶14. Recognizing that a person serving a sentence under TIS-I is serving a sentence imposed under section 973.01, the court reasoned that subsection 973.195(1r) supports an interpretation that the statute applies to TIS-I inmates. ***Id.***, ¶15. However, because subsection 973.195(1g) defines the applicable percentage by using TIS-II felony classifications and fails to "indicate how to calculate the "applicable percentage" for a TIS-I sentence," the court posited that subsection 973.195(1g) supports an interpretation that the the sentence adjustment statute does not apply to TIS-I inmates. ***Id.***, ¶¶16, 22. Since the text of Wis. Stat. § 973.195 supports "two equally reasonable interpretations," the court concluded that the statute was ambiguous and turned to the "statutes's history and other extrinsic sources to guide [its] analysis." ***Id.***, ¶17. The ***Tucker*** court's reasoning that the sentence adjustment statute is ambiguous as applied to TIS-I inmates applies to the issue presented in this case.

Further, early commentary on TIS-II identified the specific statutory ambiguity at issue in this case. *See* Michael B. Brennan et al., *Fully Implementing Truth-in-Sentencing*, 75 Wisconsin Lawyer No. 11 (Nov. 2002), at 54 n.81.[4] Specifically, Brennan observed that "[w]hile inmates serving a bifurcated sentence for an enhanced misdemeanor apparently may petition for a sentence adjustment, the statute does not specify the applicable percentage of time that they must serve before petitioning and obtaining release." *Id.*

B. The Sentence Adjustment Statute, When Read In Light Of Its History, Purpose And Scope, And In Accordance With Case Law, Applies To Inmates Serving Bifurcated Misdemeanor Sentences.

1. The history, purpose and scope of the sentence adjustment statute support eligibility.

Truth-in-Sentencing (TIS) came to Wisconsin in two phases, TIS-I and TIS-II. ***State v. Stenklyft***, 281 Wis. 2d 484, ¶16. TIS-I, which eliminated parole, was enacted in June 1998 and applied to offenses committed on or after December 31, 1999. ***Id.***, ¶16; s*ee also* 1997 Wisconsin Act 283. As designed, TIS-I established an 18-month window prior to its effective date, in order to give the the Criminal Penalties Study Committee (CPSC) time to supplement and complete the existing legislation. ***Stenklyft***, 281 Wis. 2d 484, ¶18.

The CPSC timely completed its task, but the legislature failed to enact the CPSC's proposals before TIS-I went into effect. ***Stenklyft***, 281 Wis. 2d 484, ¶18 (citing ***State***

[4] *Available at*: http://www.wisbar.org/newspublications/wisconsinlawyer/pages/article.aspx?Volume=75&Issue=11&ArticleID=259 (last visited July 11, 2014).

v. Cole, 2003 WI 59, ¶41, 262 Wis. 2d 167, 663 N.W.2d 700). Eventually, in July of 2002, then-Governor Scott McCallum called a special session to deal with Wisconsin's budget crisis, during which the legislature agreed on budget adjustment legislation that included nearly all of the CPSC's proposals***.*** ***Stenklyft***, 281 Wis. 2d 484, ¶18 (citing Brennan, *Fully Implementing Truth-in-Sentencing*, at 12).

TIS-II took effect on February 1, 2003. *See* 2001 Wisconsin Act 109, § 1143; *see also* ***Stenklyft***, 281 Wis. 2d 484, ¶16. Unlike most other provisions of TIS-II, the sentence adjustment provision was not proposed by the CPSC, but by the senate and assembly budget negotiators during the final stages of the 2002 special session of the legislature. ***Stenklyft***, 281 Wis. 2d 484, ¶23 (citing Brennan, *Fully Implementing Truth-in-Sentencing*, at 54 n.80).

The purpose of sentence adjustment under Wis. Stat. § 973.195 is clear: "to allow inmates early release from prison once they have begun to serve their sentences." ***Id.***, ¶54 (citing Legislative Reference Bureau *Wisconsin Briefs 02-7: Truth-in-Sentencing and Criminal Code Revision*, at 4-5 (Aug. 2002)[5]). The provision's scope and structure also make clear that sentence adjustment is meant to offer the most benefit to the least serious TIS offenders. It explicitly excludes inmates convicted of Class A and B felonies and creates two different "applicable percentages" that require more serious offenders to serve more time in prison before becoming eligible to petition for sentence adjustment. Wis. Stat. §§ 973.195(1r)(a) and (1g).

[5] *Available at*: http://legis.wisconsin.gov/LRB/pubs/wisbriefs.htm (accessed by following link for WB 02-7 *Truth-In-Sentencing Criminal Code Revision*, August 2002; last visited July 11, 2014).

Further, subsection 973.01(1) (2001-02), was amended as part of TIS-II to require sentencing courts to bifurcate enhanced misdemeanor prison sentences.[6] 2001 WI Act 109, § 1114; *see also* ***State v. Lasanske***, 2014 WI App 26, ¶1, 353 Wis. 2d 280, 844 N.W.2d 417. The requirement to bifurcate enhanced misdemeanor sentences stemmed from the CPSC's belief that a "misdemeanant who is dangerous enough or has committed offenses serious enough to warrant incarceration in prison also should receive a bifurcated sentence." Brennan, *Fully Implementing Truth-in-Sentencing*, at 51 n.42. By amending subsection 973.01(1), the legislature codified the CPSC's recommendation that inmates serving enhanced misdemeanor sentences receive treatment similar to inmates serving bifurcated felony sentences.

Put another way, Wis. Stat. § 973.195, when read in the context of TIS-II's amended version of Wis. Stat. § 973.01(1), unambiguously applies to inmates serving bifurcated misdemeanor sentences. While the legislature failed to define the "applicable percentage" for inmates serving enhanced misdemeanor sentences, the history, purpose, and scope of Wis. Stat. § 973.195 resolve any ambiguity in favor of elgibility after these inmates serve 75 percent of their prison sentences.

2. *Tucker's* reasoning and remedy supports Anderson's eligibility to petition for sentence adjustment after serving 75 percent of his prison sentence.

As discussed above, the ***Tucker*** court concluded that the sentence adjustment statute was ambiguous. 279 Wis. 2d 697, ¶17. While noting the "applicable percentage" issue, the court resolved the ambiguity in favor of applying the sentence

[6] TIS-I's version of Wis. Stat. § 973.01(1) (1999-00) did not require courts to bifurcate enhanced misdemeanor sentences.

adjustment provision to TIS-I inmates. The court simply applied the TIS-II felony classification under Wis. Stat. § 939.50 to persons sentenced under TIS-I for the limited purpose of determining the applicable percentage of a term of initial confinement in a Wis. Stat. § 973.195 petition for sentence adjustment. ***Id.***, ¶23. The ***Tucker*** court reached this conclusion after turning to the statute's context, history, and relevant extrinsic sources. ***Id.***, ¶¶17-22.

First, the ***Tucker*** court looked to other TIS-II provisions for evidence that the legislature intended sentence adjustment to apply to TIS-I offenders. The court reasoned that the legislature's failure to explicitly exclude TIS-I offenders from petitioning for sentence adjustment was a "strong indication" of positive legislative intent to include them. ***Id.***, ¶17.

Second, the ***Tucker*** court examined the Legislative Reference Bureau's (LRB) analysis of 2001 Wis. Act 109, which explained that

> Petitions for adjustment may be filed, beginning February 1, 2013, by *any* prisoner sentenced for a crime committed since the effective date of bifurcated sentencing (December 31, 1999)…. Those convicted of crimes before December 31, 1999, may be eligible for parole consideration and are not permitted to petition under the sentence adjustment procedure.

Id., ¶18 (citing LRB, *Truth-in-Sentencing*, at 4[7]).

Next, the ***Tucker*** court examined the "change in law or procedure" basis for sentence adjustment. ***Id.***, ¶19. The court concluded that "the very act that changed the penalty

[7] *See supra*, footnote 4.

structure for numerous offenses also provided a mechanism for adjusting sentences based on a change in law or procedure related to sentencing or revocation of extended supervision" ***Id.***, ¶20. In sum, the ***Tucker*** court determined that a drafting oversight, which resulted in an ambiguous statute, did not foreclose TIS-I inmates from petitioning for sentence adjustment.

The same type of analysis can be applied to Anderson's case. First, similar to the ***Tucker*** court's analysis of the sentence adjustment statute as applied to TIS-I inmates, ***id.***, ¶17, other provisions of TIS-II demonstrate legislative intent that sentence adjustment applies to inmates serving bifurcated misdemeanor sentences. *See* Wis. Stat. § 973.01(1). Additionally, the facts that Wis. Stat. § 973.01(1) mandates the bifurcation of enhanced misdemeanor sentences and that it took effect alongside Wis. Stat. § 973.195, are evidence that the legislature intended for habitual misdemeanants to be eligible to petition for sentence adjustment after serving 75 perecent of the initial period of confinement of a bifurcated sentence.

While it is unfortunate that subsection 973.195(1g) does not explicitly define the "applicable percentage" for bifurcated misdemeanor sentences, the structure of the provision supports Anderson's eligibility after serving 75 perent of the confinement portion of his sentence. Subsection 973.195(1g) distinguishes between the most and least serious TIS offenders by requiring inmates serving Class C, D, and F felony sentences to serve 85 percent of their confinement period prior to petitioning for sentence adjustment, while inmates convicted of less serious felonies may petition after serving only 75 percent of the confinement portion of their sentences.

Habitual misdemeanants are most similarly situated to the felons who may petition at 75 percent. The maximum enhanced misdemeanor sentence is two years, Wis. Stat. § 939.62(1)(a), and the maximum term of initial confinement is 18 months, Wis. Stat. § 973.01(2)(b)10. By comparison, the maximum sentence for a Class I felony is three years and six months, Wis. Stat. § 939.50(3)(i), and the maximum term of initial confinement is 18 months, Wis. Stat. § 973.01(2)(b)9. Hence, habitual misdemeanants are subject to the same maximum period of initial confinement in prison as Class I felons. Therefore, under Wis. Stat. § 973.195(1g), it is reasonable to conclude that each group is eligible to petition for sentence adjustment after serving 75 percent of their prison sentence.

C. Other Extrinsic Sources Support Eligibility

In order to petition for sentence adjustment under Wis. Stat. § 973.195, inmates *must* follow procedures outlined in two Wisconsin Circuit Court forms, "Petition for Sentence Adjustment §973.195" (CR-258) and "Verification of Time Served §973.195" (CR-261).[8] These forms are the product of Wisconsin Records Management Committee, a committee of the Director of State Court's Office and a mandate of the Wisconsin Judicial Conference. Neither form precludes inmates serving bifurcated misdemeanor sentences from petitioning for sentence adjustment. While the inmate completes the "Petition for Sentence Adjustment §973.195," the "Verification of Time Served §973.195" is completed by the DOC in order to verify that the inmate has served the "applicable percentage" required to petition for sentence adjustment. As evidenced by Anderson's case, the DOC

[8] Circuit Court forms *available at*: http://www.wicourts.gov/forms1/circuit/ccform.jsp?FormName=&FormNumber=&beg_date=&end_date=&StatuteCite=&Category=41&SubCat=Truth%20in%20Sentencing.

interprets Wis. Stat. § 973.195 to allow inmates serving bifurcated misdemeanor sentences to petition for sentence adjustment after serving 75 percent of their term of confinement.

III. THIS COURT SHOULD ADDRESS THE ISSUE PRESENTED EVEN THOUGH ANDERSON CAN NO LONGER PETITION FOR SENTENCE ADJUSTMENT.

Because Anderson has already been released from prison, he can no longer benefit directly from sentence adjustment under Wis. Stat. § 973.195. However, this case should be decided on the merits because the issue presented is likely to arise again and should be resolved to avoid uncertainty. *See* ***State v. Leitner***, 2002 WI 77, ¶14, 253 Wis. 2d 449, 646 N.W.2d 341. Further, this issue evades review because the appellate process usually cannot be undertaken or completed within the time that would have a practical effect upon the parties. *See* ***id.***

In ***Leitner***, our supreme court listed various reasons a court may "retain a matter for determination although that determination can have no practical effect on the immediate parties." (Citations omitted.) Those reasons include

> issues…of great public importance; … where the issue is likely to arise again and should be resolved by the court to avoid uncertainty; or where a question was capable and likely of repetition and yet evades review because the appellate process usually cannot be completed and frequently cannot even be undertaken within the time that would have a practical effect upon the parties.

253 Wis. 2d 449, ¶14 (citations omitted).

This case embodies many of the reasons appellate courts choose to decide issues even though the a decision will have no practical effect on the immediate parties.

A. The Question Of Statutory Interpretation At Issue In This Case Is "Capable And Likely Of Repetition And Yet Evades Review Because The Appellate Process Usually Cannot Be Completed…Within The Time That Would Have A Practical Effect Upon The Parties."

The problem Anderson encountered is one faced by any inmate serving a bifurcated misdemeanor sentence. Because subsection 973.195(1r) states that imates "may petition the sentencing court to adjust the sentence *if the inmate has served at least the applicable percentage of the term of confinement in prison*," inmates can not petition for sentence adjustment until they have served at least 75 percent of their term of confinement.[9] For example, an inmate serving the maximum bifurcated misdemeanor sentence of 18 months confinement followed by six months extended supervision who petitions for sentence adjustment upon serving 75 percent of 18 months (roughly 13 months and 15 days) has only 135 days left to serve in confinement. Wis. Stat. §§ 939.62(1)(a), 973.01(2)(b)10.

As this Court no doubt knows, it would be virtually impossible for a case to reach the Court of Appeals, be

[9] This is true even in cases of inmates serving multiple consecutive bifurcated misdemeanor sentences because Wis. Stat. § 973.195(1r)(i) states that "[a]n inmate may submit only one petition under this subsection for each sentence imposed under s. 973.01." The circuit court form "Order Concerning Sentence Adjustment" (CR-260) lists both the inmate's filing of a previous petition and the inmate's filing prior to completing the applicable percentage of a sentence as reasons for denial of the petition.

briefed, and result in a decision that has an actual impact on the parties within this timeframe. In 2013, the average time it took to go from Notice of Appeal to Opinion in a Three-Judge opinion case was 366 days and in a One-Judge opinion case was 191 days.[10] Both timeframes are well in excess of the amount of time an inmate serving the maximum bifurcated misdemeanor sentence has to get from the filing of his or her petition to a decision in the court of appeals before the claim becomes moot. Such claims are likely to occur, yet they will evade review.

B. This Issue "Is Likely To Arise Again And Should Be Resolved By The Court To Avoid Uncertainty."

The issue in this case will arise any time a misdemeanant serving a bifurcated sentence petitions for sentence adjustment under Wis. Stat. § 973.195. Trial courts, prison records offices, and inmates serving bifurcated misdemeanor sentencs need to know how section 973.195 applies to such inmates. A decision by this Court would end that uncertainty.

CONCLUSION

For the reasons stated, this Court should reverse the circuit court's order and clarify that inmates serving bifurcated misdemeanor sentences are eligible to petition for

[10] *See* 2013 Court of Appeals – Case Load Statistics, available at: *http://www.wicourts.gov/ca/DisplayDocument.html?content=html&seqNo=108645* (last visited July 11, 2014).

sentence adjustment under Wis. Stat § 973.195 after serving 75 percent of the confinement portion of their sentences.

Respectfully submitted this _____day of _____ 2014.

_____ _____

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CERTIFICATION AS TO FORM AND LENGTH

I hereby certify that this brief conforms to the rules contained in s. 809.19(8)(b) and (c) for a brief and appendix produced with a proportional serif font. The length of the brief is 3,644 words.

_____
Jeremy Newman

CERTIFICATION AS TO APPENDIX

I hereby certify that filed with this brief, either as a separate document or as a part of this brief, is an appendix that complies with s. 809.19 (2) (a) and that contains, at a minimum: (1) a table of contents; (2) the findings or opinion of the circuit court; (3) a copy of any unpublished opinion

cited under s. 809.23 (3) (a) or (b); and (4) portions of the record essential to an understanding of the issues raised, including oral or written rulings or decisions showing the circuit court's reasoning regarding those issues.

I further certify that if this appeal is taken from a circuit court order or judgment entered in a judicial review of an administrative decision, the appendix contains the findings of fact and conclusions of law, if any, and final decision of the administrative agency.

I further certify that if the record is required by law to be confidential, the portions of the record included in the appendix are reproduced using first names and last initials instead of full names of persons, specifically including juveniles and parents of juveniles, with a notation that the portions of the record have been so reproduced to preserve confidentiality and with appropriate references to the record.

_____

Jeremy Newman

CERTIFICATION OF COMPLIANCE WITH RULE 809.19(12)

I hereby certify that I have submitted an electronic copy of this brief, excluding the appendix, which complies with the requirements of s. 809.19(12). I further certify that this electronic brief is identical in content and format to the printed form of the brief filed as of this date. A copy of this certificate has been served with the paper copies of this brief filed with the court and served on all opposing parties.

_____

Jeremy Newman

TABLE OF APPENDICES

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