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STATE OF WISCONSIN
COURT OF APPEALS
DISTRICT II

Appellate Case No. 2015 AP 2184
Trial Court Case No. 14 TR 9971

COUNTY OF KENOSHA,

Plaintiff-Respondent,

-vs-

ROBERT PAUL ADAMS,

Defendant-Appellant.

BRIEF AND APPENDIX OF DEFENDANT-APPELLANT

Appealed from a Judgment of Conviction Entered
In the Circuit Court for Kenosha County
The Honorable Chad G. Kerkman Presiding

Respectfully Submitted:

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STATEMENT OF THE ISSUE

I. WHETHER THE CIRCUIT COURT PROPERLY FOUND THAT MR. ADAMS HAD OPERATED HIS MOTOR VEHICLE ON A "PREMISES HELD OUT TO THE PUBLIC" WHEN HE DROVE HIS VEHICLE AT A BOY SCOUT CAMPGROUND WHICH THE OWNER TESTIFIED WAS NOT OPEN TO THE PUBLIC, AND IS LIMITED TO BOY SCOUT USE?

Trial Court Answered: **Yes.**

II. WHETHER THE EVIDENCE AT THE COURT TRIAL SUPPORTED THE CIRCUIT COURT'S FINDING THAT MR. ADAMS WAS INTOXICATED "NOT ONLY WITHIN THE BOY SCOUT CAMP, BUT ALSO WHEN HE WAS DRIVING ON THE PUBLIC ROADS HELD OUT FOR PUBLIC USE, INCLUDING HIGHWAY B?"

Trial Court Answered: **Yes.**

STATEMENT ON ORAL ARGUMENT

The Defendant-Appellant believes oral argument is unnecessary in this case. Pursuant to Rule 809.22(2)(b), Stats., the briefs will fully develop and explain the issues. Therefore,

oral argument would be of only marginal value and would not justify the expense of court time.

STATEMENT ON PUBLICATION

The Defendant-Appellant believes publication of this case is also unnecessary. Pursuant to Rule 809.23(1)(b), stats., this case involves the application of well-settled rules of law to a common fact situation.

STATEMENT OF FACTS AND CASE

On October 11, 2014, at approximately 7:30 p.m., Robert Adams, the Defendant-Appellant, was seen driving on a gravel dirt road inside a Boy Scout camp asking for directions.[1] *See* (R37 at 23-24.) The name of the camp is Camp Sol R. Crown and it is owned by the Northeast Illinois Council of the Boy Scouts of America. (R37 at 6.) Camp Sol R. Crown is located in Trevor, Wisconsin. (R37 at 6.)

1 The witness did not notice any sign of intoxication at that time. (R37 at 34.)

Law enforcement was called about 30 minutes later when a witness saw Mr. Adams drive his vehicle into a bush when attempting to turn his car around after making a wrong turn onto a dead end path. (R37 at 26-27, 30.) The witness then approached Mr. Adams and could smell an odor of alcohol. (R37 at 27.)

Eventually, Deputy Nicholas Teschler arrived at Camp Sol R. Crown and spoke with Mr. Adams. (R37 at 35-37.) The parties stipulated that when Deputy Teschler encountered Mr. Adams, that Mr. Adams was intoxicated.[2] (R37 at 43-44.)

Mr. Adams was then arrested and eventually charged with Operating While Intoxicated (1st Offense), Operating with a Prohibited Alcohol Concentration (1st Offense) and Possession of Open Intoxicants in a Vehicle. *See* (R1.)

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2 After the court trial, the court asked what Mr. Adams' blood alcohol level was for sentencing purposes and was told that the breath test allegedly revealed a blood alcohol concentration of 0.10. *See* (R37 at 57.) Importantly, Mr. Adams' blood alcohol level was not in evidence for the circuit court to consider during the bench trial. *See generally* (R37 at 43.)

On April 24, 2015, Mr. Adams filed two motions. (R17.) The only motion relevant to this appeal is the Motion to Dismiss, which argued that Mr. Adams had not driven on a "premises held out to the public for use of their motor vehicles" under Wisconsin Statute Section 346.61 or on a "highway" as that word is defined in Wisconsin Statute Sections 346.02(1) and 340.01(22). (R17 at 2.)

A motion hearing was held on May 19, 2016. (R36.) At the motion hearing the County argued that whether a premises is held open for public use is a question of fact for the jury citing *State v. Carter*, 229 Wis. 2d 200, 208 (Ct. App. 1999). (R36 at 5-6.). Ultimately the circuit court agreed and left the issue for the jury. (R36 at 10.)

Prior to trial, the parties agreed to waive the jury trial and have a bench trial. (R37 at 2.) The County summed up the issue at the bench trial as follows:

> [T]he issue has to do with whether or not the area is an area where a citation can and may be permitted to be

> issued. So basically it's a Boy Scout camp run by the, I believe, Northeast Council of Illinois. The County's position is that it's open to the public or was, at least, on this particular day.

(R37 at 2-3.)

The first witness called was Michael Hale. Mr. Hale is the "scout executive" or local executive director for the Northeast Illinois Council of the Boy Scouts of America. (R37 at 6.) Mr. Hale testified that the Northeast Illinois Council of the Boy scouts owns Camp Sol R. Crown. (R37 at 6.)

Mr. Hale further testified that the Camp Sol R. Crown property has some roadways on it that are private roadways owned and maintained by the camp. (R37 at 7.) Mr. Hale continued that all of the roads, whether they are gravel or dirt, on the property are for Boy Scout use only. (R37 at 10.)

Admittedly, the camp entrance does not have a gate, but it does have a sign identifying it as Camp Sol R. Crown, Boy Scouts of America. (R37 at 14, 37.) Mr. Hale testified that the only people that are lawfully entitled to be at the camp are

employees, invited guests and the parents of invited Boy Scout guests. *See* (R37 at 16, 17.)

Further, the camp has a caretaker that lives on the property that lives there free of rent in exchange for security and maintenance. (R37 at 7, 12, 17.) The caretaker's job includes talking to people who they suspect do not belong on the camp grounds. (R37 at 12, 17.)

Conversely, the deputy testified over a defense objection that "vehicles are allowed to ingress and egress as they please. It's open to the public. Anybody can drive in there." (R37 at 38.) On cross-examination, the deputy testified as follows:

> Q: You testified earlier that Camp Sol R. Crown is open to the public?
>
> A: Yes, sir.
>
> Q: How do you know that?
>
> A: Because during the various exit patrols that I've done, I've had people that had no reason to be there and that were lost, stopping and asking for directions on how to get out of the campground.
>
> Q: So people that were lost?

A: Yes, sir.

Q: You indicated that you've seen vehicles come and go as they please out of the campground?

A: Yes, sir.

Q: Do you know who those people were?

A: I do not, sir.

Q: You don't know if they're invited to be there, paid to be there, nothing like that; correct?

A: Correct.

(R37 at 45.)

Importantly, the complaining witness, who was a volunteer working for the Boy Scouts and who indicated his "role was cooking for the staff and safety", stated that he had never seen a vehicle drive into the camp that was not associated with the Boy Scouts. (R37 at 21,29.)

At the conclusion of testimony, the County affirmed its position that the camp ground was "a premises held out for public use of motor vehicles and/or employers and employees and their vehicles and there's plenty of Boy Scouts around and

there's plenty of public driving. I think that is the issue."[3] (R37 at 47-48.)

The County rejected the suggestion that Mr. Adams should be convicted for driving anywhere else. Specifically, the County stated:

> I would stipulate to the fact that we don't have evidence other than his statements about how he got there, that he was driving on a highway because from the county's perspective, it isn't the highway driving that's involved. It's the driving on the roadway inside Camp Sol R. Crown that is involved because I don't know when he arrived at Camp Sol R. Crown.

(R37 at 47.)

Critically, while the record at the trial included the stipulation that Mr. Adams was intoxicated at the time he met the deputy, there is no indication that Mr. Adams was intoxicated at other times, much less, at some unknown time when Mr. Adams first arrived at the camp.

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3 The arresting deputy's testimony included that he had asked Mr. Adams where he was coming from and that Mr. Adams "stated his residence in Mundelein, Illinois." (R37 at 42.) Further, the deputy testified that Mr. Adams said that he had not consumed alcohol since arriving at the camp. *Id*.

At the conclusion of the trial, the circuit court held that the Boy Scout camp's roads are held out to the public for use of their motor vehicles based on three main factors:

1) The camp has no gates;

2) No one stops people as they enter the camp to drop off or pick up children during camping outings; and

3) "Any member of the public could have dropped off a child or picked up a child."

(R37 at 54-55.)

The circuit court's finding, in total, are as follows:

> The Court finds that when - - that this is a Boy Scout camp. It is owned by the Northeast Illinois Council, and it does not have gates.
>
> When you first enter this campground, it is paved and then it becomes a dirt and/or a gravel road.
>
> There's various roads that go throughout the property.
>
> There's a caretaker who stays at the property. When the camp is not open to camping with the Boy Scouts or other organizations, I think the testimony mentioned a church organization that sometimes uses the facilities, then there's a caretaker who will stop the vehicle if the caretaker doesn't recognize a vehicle and ask the driver of that vehicle to leave if that driver's not supposed to be on the property.

> However, when the property is open to Boy Scouts and to camping, then people come and go. People drop off their children. They pick up their children. People come and go. There is no one who will stop people as they come in.
>
> I heard absolutely no testimony that the caretaker will stop people when the camp is open and so based upon the fact that there was camping on October 11, 2014, there were campers in the campground, there was nobody stopping people, preventing people from coming in.
>
> Any member of the public could have dropped off a child or picked up a child.
>
> For all those reasons, I do make a finding that these roads in this campground are roads held out for public use consistent with the case law I have cited.

(R37 at 54-55.)

The circuit court then convicted Mr. Adams of Operating a Motor Vehicle While Intoxicated (1st Offense) and dismissed the charges of Operating With a Prohibited Alcohol Concentration (1st Offense) and Possession of Open Intoxicants in a Vehicle. (R37 at 57.)

Four days later, on September 29, 2016, the circuit court called another hearing to make "some additional findings." (R38 at 2.) Specifically, the circuit court noted that Mr. Adams

argued that he was not observed to have been driving outside the Boy Scout camp and it was unknown how long Mr. Adams had been in the Boy Scout camp. (R38 at 2.) Thus, the circuit court stated it "had to make a finding regarding whether the roads in the boy scout camp were held out for public use" – further noting that the County had not argued otherwise. (R38 at 2.)

The circuit court then held that the deputy testified that Mr. Adams had said that "he drove" to the camp and had "said that he came from his residence in Mundelein, Illinois, and that he had not drank alcohol after arriving at camp." (R38 at 2-3.)(referring to (R37 at 42.))

Thus, the circuit court concluded the hearing as follows:

> [I]f he was intoxicated at the time that he was observed inside the camp, he had not drank after he arrived at the camp, that he was intoxicated not only within the boy scout camp but also when he was driving on the public roads held out for public use, including Highway B.

(R38 at 3.)

Mr. Adams now appeals his conviction for Operating While Intoxicated (1st Offense).

STANDARD OF REVIEW

Whether Mr. Adams drove on a "premises held out to the public for use of their motor vehicles" while inside the Boy Scout camp requires the application of a statute to a set of undisputed facts. This is a question of law which appellate courts review de novo. *City of La Crosse v. Richling*, 178 Wis. 2d 856, 858, 505 N.W.2d 448 (Ct. App. 1993).

Second, whether the evidence supported the circuit court's finding that Mr. Adams was intoxicated when he drove on Highway B is a sufficiency of the evidence review. Thus, if the evidence presented could have convinced the trier of fact, acting reasonably, that the appropriate burden of proof had been met, appellate courts will sustain the verdict. *See City of Milwaukee v. Wilson*, 96 Wis. 2d 11, 21, 291 N.W.2d 452 (1980). Whether the evidence presented in the trial ultimately is

sufficient to support the conviction is a question of law appellate courts review de novo. *See State v. Booker*, 2006 WI 79, ¶12, 292 Wis. 2d 43, 717 N.W.2d 676.

ARGUMENT

I. MR. ADAMS WAS NOT OPERATING A MOTOR VEHICLE ON A PREMISES HELD OUT TO THE PUBLIC FOR USE OF THEIR MOTOR VEHICLES WHEN DRIVING AT THE BOY SCOUT CAMP.

Section 346.61 states, in relevant part:

> **Applicability of sections relating to** reckless and **drunken driving**. In addition to being applicable upon highways, ss. 346.62 to 346.64[4] **are applicable upon all premises held out to the public for use of their motor vehicles**….

Wisconsin Statute § 346.61 (emphasis added).

The County bears the burden of proving that the roads in the Boy Scout campground are "highways"[5] or a "premises held out to the public for use of their motor vehicles." *City of*

4 Mr. Adams was convicted of Operating a Motor Vehicle While Intoxicated (1st Offense) in violation of Section 346.63(1)(a).

5 There has been no argument or allegation that Mr. Adams drove on a

Kenosha v. Phillips, 142 Wis. 2d 549, 558, 419 N.W.2d 236 (1988).

Importantly, the drunk driving laws were not intended to apply to any premises upon which a motor vehicle can be driven. *Id*. at 556 (also noting that the parking lot in that case "was readily accessible for the use of any motor vehicle.")

The Wisconsin Supreme Court first considered what "premises held out to the public for use of their motor vehicles," meant in *City of Kenosha v. Phillips*, 142 Wis. 2d 549 (1988). The Wisconsin Supreme Court approached this task by breaking down the phrase into small chunks. First, the *Phillips* court found that "premises" meant "any parcel of land or real estate." *Id*. at 556. Second, the *Phillips* court held that if the owner of the premises in question intended that the premises be available to the public for the use of their motor vehicles, then the premises is "held out" to the public. *Id*. at 557. Lastly, the

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"highway" in the Boy Scout camp.

Phillips court defined "public" as "pertaining to, or affecting a population or a community as a whole." *Id*. at 557.

In applying this definition, the Wisconsin Supreme Court indicated that other courts deciding this issue should do so on a case-by-case basis. *See State v. Tecza*, 2008, WI App 79, ¶16, 312 Wis. 2d 395, 751 N.W.2d 896 (citing *Phillips*, 142 Wis. 2d at 558.)

In *Phillips*, the owner of a parking lot posted a sign that indicated the parking lot was for its employees only. *Id*. at 553. Thus, the *Phillips* court found that the parking lot in question was not held out to be used by the population or community as a whole, but rather it was held out to a "limited portion of the citizenry." *Id*. at 557.

Accordingly, the Wisconsin Supreme Court found that the drunk driving charge filed against Mr. Phillips was properly dismissed. The *Phillips* court continued that the limited applicability of Section 346.61 was a result of a "carefully

considered legislative decision." *Id*. at 560. Thus, the Wisconsin Supreme Court noted that while a broader statute might "more satisfactorily address the problems of drunken driving, it is not the function of the courts to undo the legislature's work." *Id*.

Lastly, the *Phillips* court acknowledged that the dismissal of the charge in that case was an "arguably untoward" result, but that result could not "justify a court in amending the statute or giving it a meaning to which it is language is not susceptible merely to avoid what the court believes are inequitable or unwise results." *Id*. at 560-61.

Importantly, the *Phillips* court left a clear example for future courts when deciding whether a premises is held out to the public. Specifically, the *Phillips* court held that in order for the prosecution to have prevailed, it would have needed to prove that the owner intended **"to permit the public as a whole** to use

the premises for parking purposes."[6] *Id*. at 558 (emphasis added).

Later, the Court of Appeals examined if a parking lot where the owner indicated that it was intended for his customers' use only - would be considered to be "held out to the public." *City of La Crosse v. Richling*, 178 Wis. 2d 856, 505 N.W.2d 448 (1993). In finding that the parking lot was "held out to the public," the *Richling* court changed the test in *Phillips*.

Specifically, rather than requiring the prosecution to prove that the owner intended to permit the public as a whole to use the premises for parking – the *Richling* court held that the prosecution now only needed to show that "potentially any resident of the community with a driver's license and access to a

6 Again, the *Phillips* court repeated "it was the legislative intent to make rules of the road in respect to drunken driving applicable off the highway only where there was evidence that it was the intent of the person managing the premises to allow the public as a whole to make use of the premises for their motor vehicles." *Id*. at 558.

motor vehicle could use the parking lot in an authorized manner." *Richling*, 178 Wis. 2d at 860.

Thus, the *Richling* court did what the *Phillips* court refused to do, i.e., rewrite the statute to make the drunk driving laws more broadly applicable to more locations. Ironically, the *Richling* court stated that if parking lots limited to customer's use only were not "public, it would be difficult to conceive of any parking lot in this state being held out to the public under the statute." *Richling*, 178 Wis. 2d at 861.

This is simply not the case. One can simply look around and find that most parking lots do not have signs limiting them to customer use only. Rather, as the Supreme Court in *Phillips* said, an owner's intent can be proven by demonstrative or circumstantial proof, by action or inaction of the owner that would make the intent explicit or implicit. *Phillips*, 142 Wis. 2d at 558. The *Richling* court should have followed the case-by-

case determination required by the Wisconsin Supreme Court in *Phillips*.

Moreover, if it was indeed true that every single business in Wisconsin wanted to limit their parking lots to their customers use only – that should not impact a court's interpretation of Section 346.61, regarding whether the property was "held out to the public." Note that the Supreme Court in *Phillips* did not consider that many/most/or all parking lots provided by employers to employees in this state would be immune to the drunk driving laws in making its decision.

Importantly, in *State v. Tecza*, the Court of Appeals considered the "*Richling* test", but based its decision on the "*Phillips* test" – and found that the roadway in question located in a gated community was "held out for use of the **public as a whole**." *Tecza*, 2008 WI App at ¶19 (emphasis added).

In the present case, the circuit court found that the paths and roads in the Boy Scout camp were held out to the public for use of their motor vehicles based on three main factors:

1) The camp has no gates;

2) No one stops people as they enter the camp to drop off or pick up children during camping outings; and

3) "Any member of the public could have dropped off a child or picked up a child."

(R37 at 54-55.)

The facts of this case, however, do not meet either the *Phillips* test or the *Richling* test. In fact, no court acting reasonably could find that the Boy Scout camp's roads were "held out to the public for use of their motor vehicles."

First, the fact that the camp was accessible to vehicle traffic does factor into the determination at all. Courts have rejected any test that focuses on physical accessibility of motor

vehicles. *Tecza*, 2008 WI App at ¶15 (citing *Phillips*, 142 Wis. 2d at 552.)

Likewise, the circuit court's second point does not add much to the determination. Admittedly, while every vehicle was not stopped and checked every day – there was a caretaker that would stop cars they suspected did not belong, i.e., were not associated with the Boy Scouts. On the whole, this should tilt the determination overwhelmingly to a finding that the Boy Scout camp was not "held out to the public."

Third, the Boy Scouts of America had posted a sign indicating that it was a Boy Scout camp. Specifically, the sign stated "Camp Sol R. Crown, Boy Scouts of America." (R37 at 37.) This is not a business. The Boy Scouts of America is a well-known youth organization that the public knows requires membership to participate.

There is not a parent or guardian that would think that they could just randomly drop their child off at that camp.

Again, the circuit court held that "any member of the public could have dropped off a child or picked up a child." This is not true. This Boy Scout camp is not a public park, entertainment center or day care center.

Rather, as the sign implies, you need to be a member of the Boy Scouts of America to use the camp. Moreover, not everyone that wants to be a Boy Scout can be one, as the Boy Scouts of America has limits to its membership. Further, even if one is a member, one cannot just go there and use the camp. Rather, one needs to be invited by the Northeast Illinois Council of the Boy Scouts of America to use their facility. *See* (R37 at 6.)

Lastly, one can see that the sign posted at the entrance of the Boy Scout camp has been effective in keeping the public out of the camp. For example, the citizen witness, who is a volunteer for the Boy Scouts, stated that he has never "seen a vehicle driving into this camp that [was not] associated with the

Boy Scouts." (R37 at 29.) Likewise, the arresting deputy testified that he had only seen people who were lost enter the camp that did not belong there. *See* (R37 at 45.)

Accordingly, by posting the sign at the entrance of the camp, the owner of the property had effectively demonstrated its intent to bar the public as a whole out of the campgrounds. *See Phillips*, 142 Wis. 2d at 558.

Thus, even using the *Richling* test, it is clear that on any given day, anyone in the community with a driver's license could not access the camp in an authorized manner.

Therefore, the circuit court's finding that the roads in the campground where held out to the public for use of their motor vehicles, is contrary to case law, and should be reversed.

II. THE CIRCUIT COURT'S FINDING THAT MR. ADAMS WAS INTOXICATED WHILE DRIVING ON HIGHWAY B, IS NOT SUPPORTED BY THE EVIDENCE AND IS BASED ON SPECULATION.

"Verdicts cannot be permitted to rest upon speculation or conjecture.") *See Schulz v. St. Mary's Hospital*, 81 Wis. 2d 638, 658, 260 N.W.2d 783 (1978). In the present case, it is unknown when Mr. Adams arrived at the camp or when he might have driven on Highway B.

Rather, what the circuit court knew was that Mr. Adams was intoxicated at the time he encountered the arresting deputy at about 8:00 pm on October 11, 2014. (R37 at 43.)("I'm stipulating that at the time they encountered him, he was intoxicated.") The circuit court specifically asked if Mr. Adams was stipulating to having a prohibited alcohol concentration, which he declined. (R37 at 43.)

For all the circuit court knew, Mr. Admas was admitting to being intoxicated when his blood alcohol level was .04.

Importantly, the prosecution did not know the time of driving on Highway B, and thus, never attempted to argue that

Mr. Adams was intoxicated when he drove to the camp. (R37 at 2-3, 42-43, 47-48.) Specifically, the prosecution stated:

> The County's position is that it's [the Boy Scout camp] open to the public or was, at least, on this particular day. (R37 at 2-3.)
>
> I think we're focusing on whether or not this [the Boy Scout camp] is a private driveway. (R37 at 42.)
>
> It isn't the highway driving that's involved. It's the driving on the roadway inside Camp Sol R. Crown that is involved because I don't know when he arrived at Camp Sol R. Crown. (R37 at 47.)

The circuit court, however, noted a few days after the court trial had concluded that the deputy testified that Mr. Adams said that "he drove" to the camp and had "said that he came from his residence in Mundelein, Illinois, and that he had not drank alcohol after arriving at camp." (R38 at 2-3.)(referring to (R37 at 42.))

Thus, the circuit court held:

> [I]f he was intoxicated at the time that he was observed inside the camp, he had not drank after he arrived at the

> camp, that he was intoxicated not only within the boy scout camp but also when he was driving on the public roads held out for public use, including Highway B.

(R38 at 3.)

The circuit court makes a number of assumptions which are unsupported by the record in the trial. First, the circuit court assumes that Mr. Adams was intoxicated by alcohol at the time he encountered the deputy. In other words, the circuit court found it important that Mr. Adams had not drank after arriving at the camp. However, perhaps Mr. Adams had taken some other intoxicant after arriving at the camp.

Second, the circuit court assumes that Mr. Adams blood alcohol level was falling when he arrived at the camp. In other words, the circuit court assumed that Mr. Adams had completely absorbed all the alcohol he had drank prior to arriving at the camp, such that his blood alcohol level was above a .08 when he was driving on Highway B.

It does not follow that because someone is intoxicated by alcohol at one time, say 8:00 pm, that they were intoxicated by alcohol at some earlier time, say 5:00 pm. A person's blood alcohol level changes over time. *See generally State v. Hinz*, 121 Wis. 2d 282, 285 (1984)(alcohol is "burned up" over time by the drinker).

Further, Mr. Adams could have consumed one large drink of alcohol just prior to entering the camp, such that he had no alcohol in his blood when driving on Highway B, but had alcohol in his blood when found in the camp.

In this case, no testimony was sought regarding whether Mr. Adams was intoxicated on Highway B, because it was unknown when he might have been on the highway, so the prosecution could not prove, and did not prove, that Mr. Adams was intoxicated at that time.

Accordingly, the circuit court's findings made days after the trial was completed are not supported by the record.

Accordingly, this Court should find that the evidence presented in the trial was insufficient to support the conviction.[7] *See State v. Booker*, 2006 WI 79, ¶12, 292 Wis. 2d 43, 717 N.W.2d 676.

CONCLUSION

WHEREFOR, Mr. Adams respectfully requests this Court to reverse his conviction based on the circuit court's failure to suppress evidence.

Dated this ____ day of April, 2016.

Respectfully submitted,
LUBAR & LANNING, LLC

By: _____
Chad A. Lanning
State Bar No. 1027573
Attorneys for Defendant-Appellant

7 In the present case, the County needed to prove its case by clear, satisfactory and convincing evidence. *See* Wisconsin Statute § 345.45.

STATE OF WISCONSIN
COURT OF APPEALS
DISTRICT II

Appellate Case No. 2015 AP 2184
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COUNTY OF KENOSHA,

Plaintiff-Respondent,

-vs-

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Defendant-Appellant.

APPENDIX

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CERTIFICATION

I hereby certify that this brief meets the form and length requirements of Rule 809.64(4) in that it is proportional serif font. The text is 13 point type and the length of the brief is 5,028 words.

I hereby certify that filed with this brief, either as a separate document, is an appendix that complies with s. 809.62(2)(f) & 809.19(2) and that contains:

(1) a table of contents;
(2) the findings or opinion of the trial court; and
(3) the portions of the record essential to an understanding of the issues raised, including oral or written rulings or decisions showing the trial 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.

I further certify that the electronically filed brief is identical in both content and format as the paper copy.

Dated this 4th day of April, 2016.

Respectfully submitted:
By:_____
Chad A. Lanning
State Bar No. 1027573
Attorney for Defendant-Appellant