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**CLERK OF COURT OF APPEALS
OF WISCONSIN**

STATE OF WISCONSIN
COURT OF APPEALS
DISTRICT III

Appeal No. 2016AP96 CR

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

TRAVIS J. MANTEUFFEL,

Defendant-Appellant.

REPLY BRIEF OF DEFENDANT-APPELLANT TRAVIS J.
MANTEUFFEL

On Appeal From the Circuit Court For Marathon County
Circuit Court Case No. 14-CF-1312
The Honorable Michael Moran, Judge Presiding

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DATED: May 9, 2016

TABLE OF CONTENTS

Table of Contents	i
Table of Authorities	ii-iii
Argument	1-3
Conclusion.	4
Certification	5-6

TABLE OF AUTHORITIES

CASE LAW:

State v. Gregory M. Radaj, 2015 WI App 50,
663 N.W.2d 663, 866 N.W. 2d 758 (2015) 1

STATUTORY AUTHORITIES:

Wis. Stat. §165.77 1

Argument

- I. WIS. STAT. §973.046, AS APPLIED TO DEFENDANT-APPELLANT, IS UNCONSTITUTIONAL.
- A. Mr. Manteuffels' original Brief uses the word "substantial". This is obviously a typographical error and the word should be "substantive."
- B. The State argues that the "intent-effects" test does not apply as was explained in *State v. Radaaj*, 2015, WI App 50, 663 Wis. 2d 633, 866 N.W 2d 758 (2015). They assert that it doesn't apply here because *Radaaj* was an ex post Facto violation.

We have already acknowledged that Mr. Manteuffels' situation is not an ex post Facto violation. However the rationale of *Radaaj* applies. There is no rational connection between the surcharge and the purposes allowed by the statute for its use. Merely enumerating

additional uses for the charge does not alter the nature of it when Mr. Manteuffel is not required to submit a sample. It is a violation of his due process rights to be required to pay for any of the uses under §165.77 because he is not required to submit a sample.¹

Lastly, the State asserts that the fee is not punitive because it is comparable to the requirement of sex offenders being responsible for the expense of maintaining the sex offender registry. The State is wholly mistaken.

Mr. Manteuffels' situation would be analogous to forcing someone to pay to contribute to maintain the offender registry when that person was not required to register as an offender. That situation would be violative of that individuals

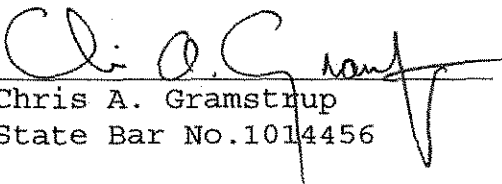
¹As we noted in our original Brief Mr. Manteuffel has previously submitted a sample and paid a fee in Marathon Co. case 03-CF-808.

right to substantive due process just as
requiring Mr. Manteuffel to pay the surcharge
would be.

Conclusion

Based upon our arguments herein, and our original Brief, we respectfully request an Order vacating that part of the Judgement of Conviction requiring payment of the \$200.00 DNA surcharge.

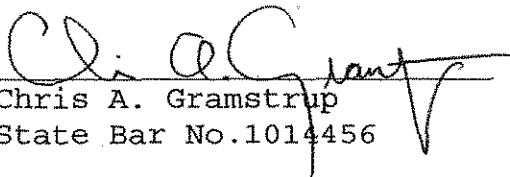
Dated: May 9, 2016


Chris A. Gramstrup
State Bar No. 1014456

CERTIFICATION

I hereby certify that this brief conforms to the
rules contained in Wis. STAT. §809.04.

Dated: May 9, 2016


Chris A. Gramstrup
State Bar No. 1014456

CERTIFICATION

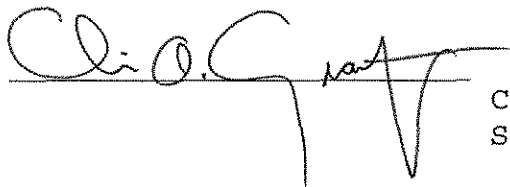
I hereby certify that:

I have submitted an electronic copy of this brief, excluding the appendix, if any, which complies with the requirements of s. 809.19(12)(f) and 3809.09(4). 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.

I hereby certify that this brief conforms to the rules contained in Wis. Stat. § 809.19 (8)(b) and (c) for a brief produced with a proportional serif font. The length of this brief is 709 words.

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.

Dated: May 26, 2016

A handwritten signature in black ink, appearing to read "Chris A. Gramstrup", written over a horizontal line.

Chris A. Gramstrup
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