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COURT OF APPEALS OF WISCONSIN
DISTRICT NO. I

04-12-2018

**CLERK OF COURT OF APPEALS
OF WISCONSIN**

CASE NO. 2017AP00364-CR

STATE OF WISCONSIN,

Plaintiff-Respondent,

Vs.

ANTHONY IVEN JONES, a/k/a HASHIM HASAN,

Defendant-Appellant,

APPEAL FROM A JUDGMENT OF CONVICTION FROM THE
CIRCUIT COURT, MILWAUKEE COUNTY,
THE HONORABLE MICHELLE ACKERMAN HAVAS AND CYNTHIA MAE
DAVIS, PRESIDING

REPLY BRIEF OF DEFENDANT-APPELLANT

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STATUTES

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STATEMENT ON ORAL ARGUMENT AND PUBLICATION

Appellant submits that the legal issues are clearly set forth in the Briefs, and the factual situation is properly reflected in the Statements of Fact and Briefs. Therefore, oral argument and publication are not necessary, but would be welcome if the Court so decides.

STATEMENT OF THE CASE

The Defendant-Appellant relies on the Statement of the Case in his Brief-in-Chief for purposes of this reply brief.

STATEMENT OF THE FACTS

The Defendant-Appellant relies on the Statement of Facts in his Brief-in-Chief for purposes of this reply brief.

INTRODUCTION

Recognizing that this Honorable Court disfavors the use of Reply Briefs to merely restate arguments presented in the Brief-in-Chief, Mr. Hasan submits this limited reply to address specific contentions within the State's Brief about whether Mr. Hasan's conviction was supported by sufficient evidence, whether the Court erred by imposing the Domestic Abuse Assessment, and whether the Court erred by leaving the name "Anthony Iven Jones" on the Judgement of Conviction.

ARGUMENT

I. THERE WAS INSUFFICIENT EVIDENCE TO CONVICT MR. HASAN AT TRIAL.

The Government argues in its brief that "the record is full of evidence that Jones [Hasan] breached the 500 foot restriction in the No Contact Order and that he spoke to T.W. in violation of the No Contact Order." (Respondent's Brief at 6). Regarding Mr. Hasan's testimony, as stated in the Appellant's Brief-in-Chief, Mr. Hasan "stated that at no point did he ask his son to put the phone on speaker phone and did not know if his son was in the presence of anyone else the time they were engaged in the phone call," and that he "did not have direct contact with Ms. Walker." (Appellant's Brief at 7). Further, he "testified that he eventually brought his vehicle nearer to the residence, having previously been a few blocks away, when he realized his wife was on the phone with law enforcement and felt he should be available to talk to speak with them." Id.

In order to commit the offense of bail jumping, one must "intentionally fail to comply with the term[s] of his or her bond." Wis. Stats. Sec. 946.49(1)(a). There is no credible evidence provided that Mr. Hasan *intentionally* failed to comply with the conditions of his bond. The record does not show that Mr. Hasan knew he was speaking to

anyone but his son on the phone. Further, Mr. Hasan only came near T.W.'s home to engage with law enforcement whom he correctly presumed wished to speak to him, and did so accordingly. Nothing about his actions demonstrates an intent to violation the conditions of his bond by either coming within 500 feet of the house or having contact with T.W., as such, there was not sufficient evidence to convict Mr. Hasan of bail jumping, and the conviction should be reversed pursuant to State v. Poellinger 153 Wis.2d 493, 507, 451 N.W.2d 752 (1990).

II. THE TRIAL COURT ERRED BY IMPOSING
THE DOMESTIC ABUSE ASSESSMENT.

The trial court's finding that the Domestic Abuse Assessment applied pursuant to Wis. Stats. Sec. 973.055(1) was clearly erroneous and should be reversed pursuant to State v. Williams, 2002 WI 1, 249 Wis.2d 492, 500-501, 637 N.W.2d 733, 736. As stated in the Appellant's Brief-in-Chief, Mr. Hasan's alleged conduct does not rise to meet the definition of Domestic Violence per Wis. Stats. Sec. 968.075, which both logically and pursuant to State v. O'Boyle, 353 Wis.2d 305, ¶24 (2014), must be met before the assessment can be applied pursuant to Wis. Stats. Sec. 973.055(1). As

such, the Court's decision to apply the Domestic Abuse Assessment in this case should be reversed.

III. THE TRIAL COURT ERRED BY LEAVING
THE NAME ANTHONY IVEN JONES ON
THE JUDGEMENT OF CONVICTION.

The Court's decision to keep the name "Anthony Iven Jones" on the Judgement of Conviction is clearly erroneous, as it is not in the "interest of the public and law enforcement to do the same." (R: 31) and State v. Williams, 2002 WI 1, 249 Wis.2d 492, 500-501, 637 N.W.2d 733, 736. Mr. Hasan legally changed his name in 2014, before the cases at subject in this brief were ever filed and before he was ever arrested for the same. (A-App 103 and 115). The name "Hashim Hasan" is not an "a/k/a" it is not an alias, it is not a nickname. It is Mr. Hasan's legal name. The fact that law enforcement, for reasons that the undersigned cannot even fathom, chose to record Mr. Hasan by his former name and not his legal name, completely trivializes the purpose of changing one's name. Mr. Hasan made the effort to legally change his name so that he would be identified as such going forward in his life, for better or worse. He did not change his name to hide from anything or mislead anyone, as evidenced by his request that his legal name be put on the Judgement of Conviction. The

interests of the public and law enforcement are better served by having Mr. Hasan's current, legal name on the Judgement of Conviction, as opposed to a name that no longer identifies him. As such, the Court's ruling should be reversed.

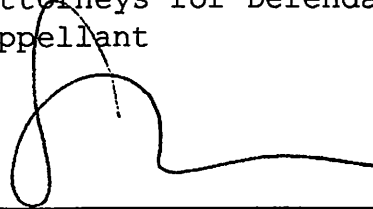
CONCLUSION

For all the reasons stated herein and the arguments set forth in support thereof, Defendant-Appellant Hashim Hasan respectfully asks that this Honorable Court vacate the conviction, or in the alternative, order a new trial, or grant such relief as the Court deems appropriate.

Dated this 8th day of April, 2018.

Respectfully Submitted,

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CERTIFICATION

I certify that this brief conforms to the rules contained in sec. 809.19(8)(b) and (c), Stats., for a brief produced using a monospaced font: 10 characters per inch; double spaced; 1.5 inch margin on the left side and 1 inch margins on the other 3 sides. The length of this brief is 5 pages.

Dated: 04-08-18.

KOHN SMITH ROTH LAW OFFICES

A handwritten signature in black ink, appearing to be 'Susan M. Roth', written over a horizontal line.

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CERTIFICATE OF COMPLIANCE WITH RULE 809.19(12)

I hereby certify that:

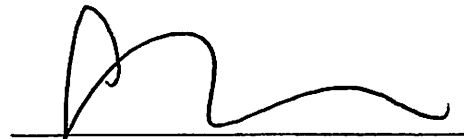
I have submitted an electronic copy of this brief, excluding the appendix, if any, which complies with the requirements of s. 809.19(12). I further certify that:

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 this paper copies of this brief filed with the court and served on all opposing parties.

Dated: 04-08-18.

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A handwritten signature in black ink, appearing to read 'Susan M. Roth', is written over a horizontal line.

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