STATE OF WISCONSIN
COURT OF APPEALS
District IV
Case No. 2018AP002130

VILLAGE OF MCFARLAND

Plaintiff-Respondent,

vs.

DALE R. MEYER,

Defendant-Appellant.

PLAINTIFF-RESPONDENT'S REPLY BRIEF

APPEAL FROM THE OCTOBER 12, 2017 DECISION AND ORDER AND SEPTEMBER 20, 2018 JURY VERDITS IN THE DANE COUNTY CIRCUIT COURT CASE NO. 2017CV000824 HONORABLE WILLIAM E. HANRAHAN

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March 6, 2019

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STATEMENT ON ORAL ARGUMENT AND PUBLICATION

Oral argument is unnecessary. This appeal does not meet any of the criteria set forth in Wis. Stats. §809.23(1)(a) supporting publication. Rather, the appeal presents issues that meet the criteria under Wis. Stats. §823.23(1)(b)1 and 3 to avoid publication.

STATEMENT OF THE CASE

A. FACTS

In the early morning hours of May 26, 2016 Dale Meyer was stopped by Village of McFarland officer Malcolm Haag for Mr. Meyer's failure to stop for a stop sign. (R.20:1; R.App. 001). Prior to the stop, Officer Haag was positioned in his squad car north of the intersection of Sigglekow and Marsh roads in the Village of McFarland. (R.59:54-55; R.App 020-021). At about 2:52 a.m., Officer Haag observed a sedan eastbound on Sigglekow Road approach the intersection and roll through the stop sign on its way to making a right turn to travel south on Marsh Road. (R.59:55; R.App 021). He activated his squad car camera and began to follow. (R.59:55; R.App 021). After following for some distance, he stopped the vehicle and made contact with Mr. Meyer who identified himself with a Wisconsin Driver's License. (R.59:57; R.App 023).

Mr. Meyer was, from the outset, obnoxious and combative with Officer Haag. (R.20:1; R.App. 001). He argued with Officer Haag about

the reason for the stop, demanded "just write me the ticket," began chewing gum, and threatened legal action against the Village of McFarland. (R.20:1; R.App. 001).

Mr. Meyer, early on and unprompted by Officer Haag, asked if Officer Haag was going to check him for drinking. (R:59:57; R.App. 023). Officer Haag then asked Mr. Meyer if he had been drinking who stated that he had. (R:59:57-58; R.App. 023-024). When asked how much he had consumed, Mr. Meyer stated "Oh, I probably had four or five or six" and that he stopped drinking about 2 hours prior to the stop. (R.59:59; R.App. 025). Mr. Meyer agreed to submit to field sobriety tests. (R.59:60-69; R.App. 026-035). As a result of his observations on the field sobriety tests and the totality of the circumstances, Officer Haag placed Mr. Meyer under arrest for operating a motor vehicle while under the influence of an intoxicant. (R.59:70-72; R.App. 036-038).

Officer Haag read Mr. Meyer the Informing the Accused form, twice. Mr. Meyer refused to consent to a test of his breath, repeatedly demanding portions of the form be read back to him. (R.20:1-2; R.App. 001-002). Officer Haag in response to Mr. Meyer's demands for a blood test, offered to read the form again and then offered him the opportunity for a blood test, an offer Mr. Meyer refused to accept, instead yelling over Officer Haag's attempt to re-read the form. (R.20:2; R.App. 002). Officer Haag was unable to obtain Mr. Meyer's consent for either a breath or blood

test. (R.59:74; R.App. 040). Officer Haag then transported Mr. Meyer to the Dane County jail where he was again offered the opportunity to take a breath test which Mr. Meyer again refused to take returning to his insistence that he be given a blood test. (R.59:75; R.App. 041). Officer Haag declined to offer Mr. Meyer the opportunity for a blood test again because of the amount of time that had already transpired. (R.59:75-76; R.App. 041-042).

Mr. Meyer was cited for operating a motor vehicle while under the influence of an intoxicant contrary to McFarland Ordinances adopting Wis. Stats. §346.63(1)(a) and for failure to stop for a stop sign contrary to McFarland Ordinances adopting Wis. Stats. §346.46(1). Mr. Meyer was also served notice of intent to revoke his license for violation of Wisconsin's Implied Consent Law, Wis. Stats. §343.305(9).

Mr. Meyer was eventually released and after his release, he went to St. Mary's Hospital and obtained a blood test of his own. (R.48:1; R.App. 003). The blood was drawn at 6:26 am and produced a blood alcohol concentration result, rounded to the nearest 100^{th}, of .03 g/100mL. Based upon this result, Mr. Meyer's blood alcohol concentration at the time of driving, depending on the actual rate of elimination, would have been between .07 and .12 g/100mL. (R.48:1-2; R.59:42; R.App. 003, 004, 018). If Mr. Meyer's rate of elimination was equal to the average rate of .015

g/100mL per hour, his blood alcohol concentration would have been .083 g/100mL at the time of driving. (R.59:42-43; R.App. 018-019).

B. PROCEDURAL POSTURE.

Because Mr. Meyer was cited with municipal ordinance violations, the charges were tried first in municipal court where he was found guilty of the implied consent violation, OWI and failure to stop. (R.1:7). Mr. Meyer appealed those convictions to circuit court for de novo review pursuant to Wis. Stats. §800.14(4). (R.1:1). On July 24, 2017, a refusal hearing was held on the implied consent violation. (R.4). After reviewing the parties' briefs, the court issued a Decision and Order dated October 12, 2017 finding Mr. Meyer had improperly refused to take a breath test. (R.20; R.App. 003,004). Mr. Meyer filed an appeal of that ruling which was later dismissed as being premature due to the unresolved OWI and stop sign violations. (R.21; R.24) The case was remanded to circuit court and a jury trial was held on September 20, 2018 on the remaining charges. (R.46) The jury found Mr. Meyer guilty on both counts. (R.53; R.54; R.App. 006, 007).

ARGUMENT

Mr. Meyer's appeal raises questions to which he provides no answer on issues that are either irrelevant to the circuit court proceedings, or that he failed to preserve by raising them in the circuit court. Most importantly, Mr. Meyer fails to describe any prejudice he suffered in the proceedings.

Mr. Meyer appears to labor under the false belief that all he is required to do on appeal is theorize about how proceedings might have been improved upon to eliminate even the theoretical occurrence of any error, regardless of whether his theory is supported by law, regardless of whether the outcome might actually have been affected, and regardless of whether he raised the issue in circuit court.

The crux of Mr. Meyer's complaint seems to be his belief that different versions of a squad camera video were played during various proceedings including his municipal court trial. He fails, however, to identify what, if any, inaccurate information was presented. He fails to identify what, if any, actual impact this may have had on the outcome of any proceedings. He fails to explain why he did not even attempt to present any contradictory evidence. He fails to cite to anything in the record demonstrating he raised such issues in the circuit court. Rather, Mr. Meyer's appeal consists of nothing more than unsupported and arguably libelous claims against the prosecuting attorney, and even his own lawyers. This appeal is frivolous and should be dismissed with costs and fees awarded to the Village pursuant to Wis. Stats. §(Rule) 809.25(3).

I. NOTHING THAT OCCURRED IN THE MUNICIPAL COURT TRIAL IS RELEVANT.

Mr. Meyer seems to complain that he should have been permitted to play video of the municipal court trial at his jury trial. This argument is

unclear and unsupported by citations to the record or arguments with citation to legal authority. On that ground alone, the court can disregard Mr. Meyer's argument. ***State v. Pettit***, 171 Wis. 2d 627, 646, 492 N.W. 2d 633, 642 (Ct. App. 1992). To the extent the court gives it consideration; Mr. Meyer's contention is both absurd and irrelevant.

Mr. Meyer claims at page 1 of his brief, in a handwritten addition: "Being self-represented, the process prevented me from using video evidence while testifying." This contention, read in its full breadth, is plainly unsupported by the record. Mr. Meyer was represented by counsel at his refusal hearing, so this comment cannot refer to anything that occurred during that hearing. At his jury trial, Mr. Meyer introduced two different DVD's, both of which were introduced without objection from the Village. (R.59: 3, 90-92, 125-126; R. App. 009, 044-048). Mr. Meyer fails to cite any portion of the record showing where he was denied an opportunity to present any video evidence.

Before trial commenced, however, the circuit court heard motions in limine from Mr. Meyer. During the court's consideration of these issues, it appears the issue of evidence from the municipal court trial became a subject of the court's discussion:

> THE COURT: "Transcript of evidence submitted," I'm not sure what that means, for example. "Offer of proof that was denied," I'm not sure what that means.

Do you plan on -- once again, the jury is going to be the finder of fact here, and the facts they will be considering are the evidence that's to be presented at trial, not the evidence from the refusal hearing necessarily, not the evidence from municipal court trial, if you had one, but the evidence. We're starting from scratch here.

Now, the cross-examining witnesses with prior inconsistent statements, you can do that by using transcripts if you'd like; but in terms of DVD evidence that was submitted, I'm guessing that the prosecution is going to mark DVD as evidence and submit that; is that right?

MR. FLEMING: Well, yes, more or less. This time around I think I'm using a flash drive. I was not able to have a DVD, but the substance of your statement is correct.

THE COURT: Okay. So I guess, Mr. Meyer, I'm not sure what you're asking for.

MR. MEYER: Well, here would be the biggest thing, I guess. Because it's been so much time that's passed, am I able to -- and pictures do a lot more also rather than a transcript, which I do have the municipal trial transcript as far as this impeachment stuff, am I able to show Malcolm Haag's answer, you know, per question and how I feel that is so incongruent with the video that we'll be showing here today?

THE COURT:

...

There is a method of impeaching people with prior inconsistent statements. I'm assuming that if it's done incorrectly, the prosecution will object. At that time I'll have to rule upon it, but I can't -- I wish I were retired and I could represent you in this case, but I can't do that.

MR. MEYER: Can I show anything of that trial then or should I just put that DVD away?

THE COURT: Well, you can, subject to the rules of evidence, once again.

MR. MEYER: And then Matt Fleming will just object and --

THE COURT: Well, he might. Might not object, too. I'm not sure what -- I don't know what the strategies of either side is.

(R.59: 7-9; R.App. 013-015).

Mr. Meyer, never actually attempted to use the municipal court DVD (or for that matter, the transcript he had made) in order to impeach any witnesses or for any other reason. Further, Mr. Meyer fails to explain why such evidence would have been relevant in the circuit court trial. As the circuit court explained to him, "We're starting from scratch here." (R.59:7; R.App. 013).

Indeed it is well established that an appeal from municipal court can include a trial de novo which is precisely the option Mr. Meyer pursued. Wis. Stats. §800.14(4). (R.1:1). The present appeal is not from the municipal court proceedings, but rather, from the de novo circuit court proceedings. Mr. Meyer had the opportunity to make sure that any problems that he believes occurred in the municipal court would not occur in either the refusal hearing or jury trial in circuit court. As is the nature of de novo proceedings, nothing that happened in the circuit court was affected by anything that occurred in municipal court.

Accordingly, nothing that occurred in municipal court is relevant or reviewable in this appeal. This includes the "Decision and Order Re: Motion to Reopen" which Mr. Meyer attached to his brief. Not only is this

document not relevant, and not made part of a proper appendix under Wis. Stats. §(Rule) 809.19(2), but it is not part of the circuit court record. The court of appeals does not take additional evidence, and the record may consist only of those documents that were before the fact finder. ***State ex rel. Wolf v. Town of Lisbon***, 75 Wis. 2d 152, 155–56, 248 N.W.2d 450 (1977).

II. MR. MEYER DID NOT OBJECT TO THE INTRODUCTION OF, OR REFUSAL OF, ANY VIDEO EVIDENCE AT EITHER HIS REFUSAL HEARING OR JURY TRIAL AND, ACCORDINGLY WAIVED ANY SUCH ISSUE ON APPEAL.

Mr. Meyer fails to cite any part of the record demonstrating any instance where he actually attempted to introduce any video evidence that was objected to or refused by the circuit court. He was given the opportunity to view the "version" of the video evidence the prosecution intended to show the jury and he told the court that he did not object to its introduction and receipt into evidence. (R.59:77; R.App. 043). Mr. Meyer himself introduced two different DVD's, both of which were introduced without objection from the Village. (R.59:3, 90-92, 125-126; R. App. 009, 044-048). Mr. Meyer fails to identify any issue regarding video evidence that was properly preserved in circuit court.

The law is clear that to argue any issues on appeal, an appellant has the burden to show that he raised the issue in the circuit court. ***State v.***

Huebner, 2000 WI 59, ¶10, 235 Wis. 2d 486, 492, 611 N.W.2d 727, 730.

As the Supreme Court has explained:

> We have described this rule as the "waiver rule," in the sense that issues that are not preserved are deemed waived. The waiver rule is not merely a technicality or a rule of convenience; it is an essential principle of the orderly administration of justice. The rule promotes both efficiency and fairness, and go[es] to the heart of the common law tradition and the adversary system.
>
> The waiver rule serves several important objectives. Raising issues at the trial court level allows the trial court to correct or avoid the alleged error in the first place, eliminating the need for appeal. It also gives both parties and the trial judge notice of the issue and a fair opportunity to address the objection. Furthermore, the waiver rule encourages attorneys to diligently prepare for and conduct trials. Finally, the rule prevents attorneys from "sandbagging" errors, or failing to object to an error for strategic reasons and later claiming that the error is grounds for reversal. For all of these reasons, the waiver rule is essential to the efficient and fair conduct of our adversary system of justice.

Id. at ¶¶11-12 (citations omitted).

Mr. Meyer has failed in this burden, and spectacularly so. This is not a case where the parties may debate about whether certain statements or actions properly preserved an issue for appeal. Nothing exists in the record to even remotely support such a claim. Rather, the foundation Mr. Meyer's appeal is built upon his failure to understand this most basic principle of appellate advocacy. For this reason his appeal must fail.

III. MR. MEYER FAILS TO IDENTIFY ANY PREJUDICE.

Success on appeal requires more from the appellant than proposing provocative, rhetorical questions: e.g. "DVD's are issued to both the prosecution and defense. But are they authentic? Do both parties have the same copy?" Meyer Brief, p. 6. Mr. Meyer fails to comprehend that questions raised on appeal must have answers that he needs to provide. In order to demonstrate prejudicial error sufficient to overturn his conviction on any charge, "there must be a reasonable possibility that the error contributed to the outcome of the action or proceeding at issue." ***Evelyn C. R. v. Tykila S.***, 2001 WI 110, ¶28, 246 Wis. 2d 1, 629 N.W.2d 768. Mr. Meyer does not even begin to explain how things would have, or even could have, been different had the vague "shenanigans" of which he complains not occurred. In fact, based on his conduct at trial, it is not clear that Mr. Meyer believes the jury was misinformed in any way given that he presented no contrary evidence.

At one point, in a sidebar discussion with the court, Mr. Meyer claimed: "I have video and testimony that absolutely contradicts what's in the police reports." (R.59:156; R.App. 049) Yet, never once did Mr. Meyer attempt to impeach any witness with such evidence. Mr. Meyer failed to present a single word of testimony contradicting anything that was said in a police report. He had the opportunity to point out to the jury any evidence

he thought was in any way inaccurate. The record does not reflect even an attempt to do so on Mr. Meyer's part.

Mr. Meyer, when he finally had his opportunity to testify, first tried to testify about a conversation he had earlier in the evening with another person about that person's arrest on different charges. (R.59:164-165; R.App. 057-058). Being clearly irrelevant, the court excluded the testimony, an issue Mr. Meyer has wisely not appealed. (R.59:165; R.App. 164). Mr. Meyer then tried to testify, with minimal success due to lack of foundation, about whether the field sobriety tests were properly conducted. (R.69:165-171; R.App. 058-064). Another issue Mr. Meyer has wisely not appealed. This line of testimony, however, did not seem to have anything to do with inaccurate video representations. (R.69:165-171; R.App. 058-064).

Mr. Meyer next tried to testify about the timing of his blood test. (R.59:172; R.App. 065). The argument it seems he was trying to develop was that Officer Haag had intentionally tried to prevent him from getting a blood test within the three hour window for automatic admissibility of chemical tests for intoxication established by Wis. Stats. §885.235. (R.59:172-179; R.App. 065-072). This strategy was premised upon the erroneous belief that if he had been able to get the blood test earlier, and it showed he was below a .08, that alcohol curve evidence could not be introduced to show he was likely over the legal limit at the time of driving.

(R.59:172-179; R.App. 065-072). This testimony had nothing to do with the accuracy of what was presented in any video and is also not an issue Mr. Meyer raises on appeal.

Lastly, Mr. Meyer testified that he became obstinate with the officer because he was mistaken about which stop sign the officer had accused him of running. (R.59:181-182; R.App. 074-075). Similarly, nothing in this line of testimony seems to challenge anything viewed in the video evidence admitted. It is during this line of testimony that Mr. Meyer appears to concede that he did, in fact, fail to stop for one, and maybe two different stop signs:

> Again, the first one is Siggelkow and Marsh. The police officer's vehicle was about 30 yards in the middle of the road, 30 yards back. I don't notice any vehicle then. I perform that stop. I slowed down, as Malcolm Haag said, I mean, "He didn't completely stop, but he slowed down." And that's per what we saw in the video.
>
> I don't see a police officer. This stop sign, when he says, "You didn't stop," I'm thinking is at the end. It's a T intersection. I'm convinced that I've stopped for that one; although, truth be said, I did not properly stop because until this event, that white line was something I wasn't paying attention to. You know, there's the white line before the stop sign, and you have to stop there. So even that one I guess would be questionable, you know, per that.

(R.59:181-182; R.App. 074-075).

And that is it. That was the sum total of Mr. Meyer's testimony. While Mr. Meyer clearly tried to provide excuses for how he performed on the field sobriety tests and for his strangely combative behavior, Mr. Meyer

never testified to his innocence on either of the charges. He never testified that he stopped at the stop sign at Sigglekow and Marsh Roads. Mr. Meyer never testified that he was not impaired by alcohol. Mr. Meyer never contradicted any other witnesses' testimony, or testify that any video evidence misrepresented what occurred in the early morning hours of May 26, 2016.

IV. MR. MEYER IS NOT PERMITTED TO WRITE ANOTHER BRIEF TO DISCUSS ISSUES HE FAILED TO ADDRESS IN HIS INITIAL BRIEF.

Fashioning it as "Issue Two" of his initial brief, Mr. Meyer requests the opportunity to submit another brief to "fully rebut Judge Hanrahan's Refusal Ruling." Meyer Brief, p. 1. Like the remainder of his brief, this request is unaccompanied by any legal argument or citation to authority and, for that reason alone, can be ignored. ***Pettit***, 171 Wis. 2d at 646.

It should be noted, however, that Mr. Meyer's certification of the length of his brief indicates he used only 21 of 50 pages he was entitled to submit (or only 3,590 of 11,000 words had he used a proportional serif font). Meyer Brief, p. 16; Wis. Stats. §(Rule) 809.19(8)(c). Other than, perhaps, a mistaken belief that silence on an issue is a substitute for brevity (Meyer Brief, p. 1), no reason appears to exist why Mr. Meyer decided not to present all of his argument in his initial brief as required.

The procedure for briefing in the court of appeals is set forth in Wis. Stats. §(Rule) 809.19. That procedure allows the appellant one initial brief

in which he is to set forth and argue all of the issues he wishes to be considered on appeal. No provision is made for piecemeal presentation of issues over several initial briefs contingent upon how the court decides the first issue the appellant wishes to discuss. "An appellate court is not a performing bear, required to dance to each and every tune played on an appeal." ***State v. Waste Mgmt. of Wis., Inc.***, 81 Wis. 2d 555, 564, 261 N.W.2d 147 (1978).

Mr. Meyer is allowed only one additional brief, his reply brief under Wis. Stats. §(Rule) 809.19(4). That reply brief is not permitted to contain new issues not raised in Mr. Meyer's initial brief. ***Northwest Wholesale Lumber, Inc. v. Anderson,*** 191 Wis. 2d 278, 294 n. 11, 528 N.W.2d 502 (Ct.App.1995). "[Pro se litigants] are bound by the same rules that apply to attorneys on appeal." ***Waushara County v. Graf***, 166 Wis. 2d 442, 452, 480 N.W.2d 16 (1992). The circuit court apprised Mr. Meyer of this legal principle as well. (R:59:5; R.App. 011). Unfortunately for Mr. Meyer, it is a lesson that seems not to have been learned.

V. MR. MEYER'S APPEAL IS FRIVOLOUS.

The Village moves the Court, pursuant to Wis. Stats. §(Rule) 809.25(3), to find Mr. Meyer's appeal to be frivolous and awarding costs, fees and attorney's fees as set forth in its motion or, alternatively to remand to the circuit court to determine the proper amount of such costs and fees to award. Mr. Meyer's appeal is plainly frivolous.

> In order to find an appeal . . . frivolous under par. (a), the court must find one or more of the following:
>
> 1. The appeal ... was filed, used or continued in bad faith, solely for purposes of harassing or maliciously injuring another.
>
> 2. The party or the party's attorney knew, or should have known, that the appeal ... was without any reasonable basis in law or equity and could not be supported by a good faith argument for an extension, modification or reversal of existing law.

Wis. Stats. §(Rule) 809.25(3)(c).

In determining whether an appeal is frivolous, the Court applies an objective standard, asking "what should a reasonable person in the position of this pro se litigant know or have known about the facts and the law relating to the arguments presented." ***Holz v. Busy Bees Contr., Inc.***, 223 Wis. 2d 598, 608, 589 N.W.2d 633 (Ct.App.1998) (citation omitted). "As with lawyers, a pro se litigant is required to make a reasonable investigation of the facts and the law before filing an appeal." ***Id.*** Because sanctions exist to deter litigants and attorneys alike from commencing or continuing frivolous actions, the Court does not distinguish between pro se litigants and attorneys when determining whether to order sanctions. ***Id.*** at 609. Regardless of who brings the appeal, the result of frivolous appeals is "the same—unnecessary and burdensome" litigation and the financial consequence thereof. ***Id.*** Even to the extent the court considers leniency to pro se litigants, Mr. Meyer "was obligated, at a minimum, to mount an arguable case showing where the trial court went wrong." ***Id.***

As reflected in the forgoing sections of the Village's response, Mr. Meyer has failed, in the most fundamental way possible, to explain why he should be entitled to the relief he seeks. Mr. Meyer clearly lacks any reasonable basis in law or equity or good faith argument for the extension, modification or reversal of existing law for this appeal since he cites no law at all. Even though he clearly believes himself unconstrained by the record on appeal in making factual statements (See e.g. Meyer Brief, pp. 8-9), he still fails to state exactly what he thinks went wrong much less explain how any vague "shenanigans" affected the outcome of any proceedings. He doesn't even seem to claim that the outcome would have been different had these "shenanigans" not occurred.

Further, the impropriety of Mr. Meyer's motivations seems apparent. None of his appeal brief is directed to errors, omissions or mistakes that affected the outcome of the circuit court proceedings. Rather, like his frivolous post-jury trial motion to reopen municipal court proceedings, Mr. Meyer seems intent only to make accusations against the prosecuting attorney and his own attorneys for things they allegedly did or failed to do. Mr. Meyer seems to want the Court to believe there was a conspiracy between all of the lawyers involved in this case to falsify evidence against him for violations which he does not actually dispute committing.

As he did when he first encountered Officer Haag back in the early morning hours of May 26, 2016, Mr. Meyer wants to aggressively

scrutinize, criticize and attack others for any perceived error, but when it comes to the relevant issues and evidence relating to his conduct and the charges against him, he is virtually silent. The lack of legal or factual basis and improper purpose of Mr. Meyer's appeal is apparent. The appeal is frivolous and sanctions should be awarded.

CONCLUSION

For the above and forgoing reasons, the judgment of the circuit court as to the implied consent violation, OWI and failure to stop at stop sign should be affirmed and Mr. Meyer's appeal dismissed. Further, the Court should find Mr. Meyer's appeal to be frivolous and award the Village its costs, fees, including attorney's fees as set forth in its motion, or, in the alternative, remand the matter to the circuit court to determine the appropriate amount of costs and fees.

Dated this 6th day of March, 2019.

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CERTIFICATION

I certify that this brief conforms to the rules contained in § 809.19(8)(b) and (c) for a brief produced using the following font:

__ Monospaced font: 10 characters per inch; double spaced; 1.5 inch margin on left side and 1 inch margins on the other 3 sides. The length of this document is _____ pages.

X Proportional serif font: Min. printing resolution of 200 dots per inch, 13 point body text, 11 point for quotes and footnotes, leading of min. 2 points, maximum of 60 characters per full line of body text. The length of this brief is 4,446 words.

Dated this 6th day of March, 2019.

Matthew J. Fleming

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

Dated this 6th day of March, 2019.

Matthew J. Fleming

4819-4992-3977, v. 1