STATE OF WISCONSIN
COURT OF APPEALS
DISTRICT IV

Appeal No. 2019AP000153 - CR

STATE OF WISCONSIN,

Plaintiff-Appellant,

vs.

JOHN W. LANE,

Defendant-Respondent.

BRIEF AND APPENDIX OF DEFENDANT-RESPONDENT

ON APPEAL FROM A NON-FINAL ORDER ENTERED ON JANUARY 7, 2019, IN THE CIRCUIT COURT FOR PORTAGE COUNTY, THE HONORABLE THOMAS FLUGAUR, PRESIDING

Respectfully submitted,

JOHN W. LANE,
Defendant-Respondent

TRACEY WOOD & ASSOCIATES
Attorneys for the Defendant-Respondent
One South Pinckney Street, Suite 950
Madison, Wisconsin 53703
(608) 661-6300

BY: TEUTA JONUZI
State Bar No. 1098168

BY: TRACEY A. WOOD
State Bar No. 1020766

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

STATEMENT OF THE ISSUES

I. DID THE CIRCUIT COURT ERR WHEN IT HELD THAT THE WARRANTLESS ANALYSIS OF MR LANE'S BLOOD, WHICH TOOK PLACE AFTER HE HAD WITHDRAWN HIS CONSENT TO TESTING, VIOLATED HIS FOURTH AMENDMENT RIGHT TO BE FREE FROM UNLAWFUL SEARCHES AND SEIZURES?

STATEMENT ON PUBLICATION

Defendant-respondent recognizes that this appeal, as a one-judge appeal, does not qualify under this court's operating procedures for publication. Hence, publication is not sought.

STATEMENT ON ORAL ARGUMENT

Oral argument would be appropriate in this case only if the Court concludes that the briefs have not fully presented the issue on appeal.

STATEMENT OF THE CASE AND FACTS

This is an appeal from the trial court granting Mr. Lane's motion to suppress the results of an evidentiary chemical analysis of his blood after an arrest for operating while under the influence of an intoxicant.[1]

On August 21, 2017, Officer Justin Klein arrested Mr. Lane for operating while under the influence of an intoxicant ("OWI").[2] After the officer read Mr. Lane the Informing the Accused form, Mr. Lane submitted to a blood test.[3] Officer Klein took Mr. Lane to the hospital, where his blood was drawn.[4]

On August 28, 2017, Mr. Lane sent a letter to the Wisconsin State Lab of Hygiene "revok[ing] any previous consent that he may have provided to the collection and analysis of his blood."[5] The Lab disregarded Mr. Lane's letter and analyzed the sample on September 5, 2017. On September 7, 2017, the Lab issued a report, showing a blood alcohol concentration above the legal limit.[6]

On September 14, 2017, the Portage County District Attorney's Office charged Mr. Lane with operating a motor vehicle while under the influence of an intoxicant and operating with a

[1] R.30.
[2] *Id.* at 2.
[3] R.44 at 20.
[4] *Id.*
[5] R.24 at 2; 4.
[6] *Id.* at 5.

prohibited alcohol concentration, both as a third offense.[7] Because the laboratory's analysis of his blood after he revoked consent was unlawful, Mr. Lane moved to suppress the test result.[8]

The trial court ruled for Mr. Lane, finding that because a blood test is a Fourth Amendment search, a person could withdraw his consent to the search of that blood.[9] The court further found that Mr. Lane withdrew his consent prior to the analysis of the blood by the Lab.[10] The court agreed that consent could be withdrawn under the Fourth Amendment.[11]

The State now appeals the trial court's order granting the suppression motion.

[7] R.4.
[8] R.24.
[9] *Id.* at 57.
[10] R.45 at 16.
[11] *Id.* at 18.

ARGUMENT

I. THE CIRCUIT COURT CORRECTLY SUPPRESSED THE BLOOD RESULTS.

A. Standard of Review

Whether a search is valid under the Fourth Amendment is a question of constitutional law reviewed *de novo*.[12] Appellate courts uphold findings of historical facts unless they are clearly erroneous.[13]

B. *State v. Randall* does not provide controlling precedent.

As the State's brief points out, there were two conflicting decisions out of this Court on the issue of withdrawing consent to blood testing. In ***State v. Sumnicht***, the Court held the appellant could not withdraw her consent to blood testing.[14] The Court relied on ***State v. VanLaarhoven***, which held that analyzing a blood sample did not require an independent legal justification.[15] In ***VanLaarhoven***, the Wisconsin Court of Appeals held that no warrant was necessary to analyze the defendant's blood where the police relied upon the defendant's *unretracted* consent to the search.[16]

---

[12] ***State v. Guzman***, 166 Wis. 2d 577, 586, 48 N.W.2d 446 (1992).
[13] ***State v. Robinson***, 2010 WI 80, ¶ 22, 327 Wis. 2d 302, 786 N.W.2d 463.
[14] ***State v. Sumnicht***, 2018 WI App 8, ¶ 21, 379 Wis. 2d 767, 909 N.W.2d 210 (unpublished but citable pursuant to Wis. Stat. § 809.23(3)(b)).
[15] ***State v. VanLaarhoven***, 2001 WI App 275, 248 Wis. 2d 881, 637 N.W. 2d 411.
[16] ***VanLaarhoven***, 2001 WI App 27, ¶ 17.

The State also mentions ***State v. Randall*** in its submission.[17] Since the time the State appealed this case, the Supreme Court accepted review in ***Randall***.[18] Very recently, the Court issued its decision.[19] The State has not addressed the Supreme Court decision; however, Mr. Lane concedes the decision impacts this case and that this Court is bound by the Wisconsin Supreme Court. The rationale of the Supreme Court, however, is unclear as there was no majority that agreed on the exact basis for reversing the ***Randall*** Court of Appeals decision. Mr. Lane still submits this brief to not waive any argument should there be further federal review in this matter.

In ***State v. Randall***, the Wisconsin Supreme Court found that Ms. Randall could not withdraw previously given consent to her blood testing. More specifically, in ***Randall***, the respondent, following her arrest for operating while impaired, attempted to revoke her consent to blood testing by letter to the Wisconsin State Hygiene Lab.[20]

The decision does not provide a cohesive legal theory for analyzing the relevant legal claim. More specifically, the Court's decision was fractured. There was no agreement as to the legal basis

[17] State Br. at 10.
[18] ***State v. Randall***, 2018 WI 107, 384 Wis. 2d 772, 921 N.W.2d 509.
[19] ***Randall,*** 2019 WI 80, 387 Wis. 2d 774, 930 N.W.2d 223.
[20] ***Randall***, 2019 WI 80, ¶ 3.

upon which Ms. Randall's consent could not be withdrawn. Where a decision is fractured, its precedential value is curtailed.[21]

The lead opinion, authored by Justice Kelley, relies on the legal theories of a reduced privacy interest incident to an arrest.[22] No party argued such a theory in briefing or oral argument.[23] Moreover, the cases the lead opinion relies upon are cases where there was a concern for the destruction of evidence or police safety.

The concurring opinion, authorized by Justice Roggensack, concludes the respondent-defendant had no privacy interest in the alcohol concentration in her blood. The lead opinion found this "troubling."[24] In fact, the lead opinion repeats many of the same concerns outlined by Ms. Randall: What prohibits the State from testing a non-arrestee's blood for substances out of curiosity?[25] What prohibits the State from testing any sample drawn for medical purposes?[26] According to the lead opinion, the concurrence's reasoning "has no bounds."[27]

Here, it would be difficult to extrapolate any law from ***Randall*** other than that Ms. Randall's suppression order was reversed upon the

---

[21] *See* ***State v. Elam***, 195 Wis. 2d 683, 685, 538 N.W.2d 249 (1995) ("a majority of the participating judges must have agreed on a particular point for it to be considered the opinion of the court.").
[22] ***Randall***, 2019 WI 80, ¶ 20.
[23] ***Randall***, 2019 WI 80, ¶ 67 (Roggensack, J., concurring).
[24] ***Randall***, 2019 WI 80, ¶ 37.
[25] ***Id.***
[26] ***Id.***
[27] ***Id.***

facts of that case. A fractured decision provides little guidance to lower courts on the law. As noted above, there was no consensus on the legal reasoning of the Court or the doctrines it employed. It is therefore incorrect to fully rely on ***Randall*** here.

Moreover, even if this Court were to find that the ***Randall*** decision was a cohesive decision, the facts here are distinguishable. First, though both Ms. Randall and Mr. Lane were asked whether they would submit to a blood test, on the night in question, Mr. Lane did not readily agree to the blood test.[28] Mr. Lane first stated he would prefer a breath test.[29] Then he "mumbled" something that the officer stated he did not hear.[30] These facts indicate Mr. Lane did not wish to submit to the evidentiary test. This was in contrast to the clear, unequivocal original consent as in the ***Randall*** case.[31]

C. A person has a legitimate privacy interest in the information contained in a sample of his blood.

A staggering amount of personal information can be acquired by the analysis of a sample of blood. The presence of alcohol, drugs, or other chemicals can be detected; as well as genetic information about ancestry, family connections, medical conditions, pregnancy, and genetic profiles suitable for identification purposes. For these

[28] R. 44 at 17-21.
[29] *Id.* at 17.
[30] *Id.*
[31] ***Randall***, 2019 WI 80, ¶ 2.

reasons, the United States Supreme Court has recognized that the chemical analysis of a blood sample is an invasion of an individual's privacy.[32]

The United States Supreme Court has consistently recognized an expectation of privacy in the information contained within biological samples—a privacy interest distinct from the collection of the samples in the first place. In the 1989 case ***Skinner v. Railway Labor Executives' Association***, the Court explained:

> [I]t is obvious that this physical intrusion, penetrating beneath the skin, infringes an expectation of privacy that society is prepared to recognize as reasonable. The ensuing chemical analysis of the sample to obtain physiological data is a further invasion of … privacy interests.[33]

In 2001, the United States Supreme Court decided the case of ***Ferguson v. City of Charleston***, where warrantless drug testing was conducted on lawfully-obtained urine samples.[34] Despite the collection of the urine itself being lawful, the Court, citing to ***Skinner***, held that "[T]he urine tests … were *indisputably* searches within the meaning of the Fourth Amendment."[35]

In ***Birchfield v. North Dakota***,[36] the Supreme Court commented on the information contained in a blood sample, as distinct from a breath sample:

---

[32] ***Skinner v. Ry. Labor Executives' Ass'n***, 489 U.S. 602, 616 (1989).
[33] ***Skinner***, 489 U.S. 602, 616 (1989).
[34] ***Ferguson v. City of Charleston***, 532 U.S. 67, 73 (2001).
[35] *Id*. at 76 (emphasis supplied).
[36] 136 S. Ct. 2160 (2016).

> [A] blood test, unlike a breath test, places in the hands of law enforcement authorities a sample that can be preserved and from which it is possible to extract information beyond a simple BAC reading. Even if the law enforcement agency is precluded from testing the blood for any purpose other than to measure BAC, the potential remains and may result in anxiety for the person tested.[37]

The caselaw is unambiguous that individuals have a legitimate and recognized privacy interest in the information contained in their own blood. The ***Randall*** lead opinion recognized the inherent privacy interest in blood, stating:

> The similarities between a smart phone and a blood sample in terms of the amount of information they each contain, and the personal nature of that information, are such that we must pay particular attention to what the Supreme Court said about the State's access to it.[38]

Here, the Court referenced ***Riley v. California***.[39] In ***Riley v. California***, the United States Supreme Court addressed the applicability of the warrant requirement to cell phone searches.[40] Of course, a blood sample analysis and a cell phone search are not exactly alike. Both a cell phone and a blood sample have vast amounts of unanalyzed personal information contained within.

The question in ***Riley*** was whether police could analyze the contents of a lawfully-seized cell phone under the Fourth

[37] ***Birchfield***, 136 S. Ct. at 2178.
[38] ***Randall***, 2019 WI 80, ¶ 34.
[39] ***Riley v. California***, 134 S. Ct. 2473 (2014).
[40] ***Riley v. California***, 134 S. Ct. 2473 (2014).

Amendment.[41] The Court recognized that a huge amount of personal information could be stored on or accessed through a cell phone, including information implicating significant privacy concerns, such as medical records.[42] The Court ultimately decided:

> [A] warrant is generally required before such a search, even when a cell phone is seized incident to arrest … Our answer to the question of what police must do before searching a cell phone seized incident to an arrest is accordingly simple—get a warrant.[43]

Analyzing a blood sample, like searching a cell phone, potentially presents privacy implications sufficient to require police to obtain a warrant or a warrant exception to search these items. It is irrelevant that ***Riley*** involved a search incident to arrest and Ms. Randall initially consented to the analysis of her blood. The foundational legal principle is identical: Even though a piece of evidence is already in police custody, when there is no legal basis for a search, the search is unlawful. Because the government had no legal justification for the blood analysis after Ms. Randall withdrew her consent, it was an unlawful search, and the test results were suppressed.

The State cited to ***State v. VanLaarhoven*** to argue that analyzing the blood sample at issue did not require an independent

---

[41] ***Riley***, 134 S. Ct. at 2480.
[42] ***Id***. at 2490.
[43] ***Id.*** at 2493, 2495.

legal justification.[44] Yet ***VanLaarhoven*** does not control here. In ***VanLaarhoven***, the Wisconsin Court of Appeals held that no warrant was necessary to analyze the defendant's blood where the police relied upon the defendant's *unretracted* consent to the search.[45] The State's reliance upon ***State v. Petrone*** is also misplaced. [46] ***Petrone*** involved a question pertaining to the scope of a search warrant—whether the seizure and development of undeveloped film was lawful when the search warrant did not explicitly authorize it.[47] Although ***Petrone***'s applicability to the facts of this case would be tenuous at best, it is also questionable whether the principal holding of ***Petrone***—which appears to give police officers a fairly broad latitude in conducting additional searches on previously-seized evidence—would be sustained today in light of ***Riley v. California***.

Neither ***VanLaarhoven*** nor ***Petrone*** apply to the facts of Mr. Lane's case. Because he initially consented to the analysis of his blood but then promptly withdrew it, Mr. Lane did not suggest to the trial court, as in ***VanLaarhoven***, that a warrant was required to analyze his blood *notwithstanding* his consent. The point is that the original justification for the seizure *and* analysis of the blood—his consent—

---

[44] State Br. 8; ***State v. VanLaarhoven***, 2001 WI App 275, 248 Wis. 2d 881, 637 N.W. 2d 411.
[45] ***VanLaarhoven***, 2001 WI App 27, ¶ 17.
[46] State Br. 11; ***State v. Petrone***, 161 Wis. 2d 530, 545, 468 N.W.2d 676 (1991).
[47] ***Petrone***, 161 Wis. 2d at 539–40.

ceased to exist. Without the existence of valid consent, the search should have promptly ceased.

D. The implied consent law does not affect the analysis here.

The police can ask for consent to search without a specific statutory scheme. Citizens can give, refuse, modify, or withdraw consent without such a statutory scheme. The implied consent law was designed to facilitate the collection of evidence by allowing the State to penalize drivers who do not provide consent.[48] It permits the State to penalize a driver who refuses to consent, but it does not directly create or compel consent.

While the government does possess an interest in keeping public highways safe, citizens also possess a right to be free from unreasonable searches. There is no need for these rights to conflict with one another. Police have many methods at their disposal for the collection of evidence in criminal cases. Each method has its potential benefits and potential drawbacks. The benefit of relying on consent is that it can save police the small amount of work that would be required to obtain a warrant prior to a blood draw. One drawback from the government's point of view is that relying solely on consent brings

[48] *Cf.* ***State v. Gibson***, 2001 WI App 71, ¶ 7, 242 Wis. 2d 267, 626 N.W.2d 73; ***State v. Padley***, 2014 WI App 65, ¶¶ 26–27, 354 Wis. 2d 545, 849 N.W.2d 867; ***State v. Brar***, 2017 WI 73, ¶¶ 44–86, 376 Wis. 2d 685, 898 N.W.2d 499 (Kelly, J., concurring).

the blood analysis process under the umbrella of Fourth-Amendment caselaw concerning voluntary consent—including the well-recognized right to modify or revoke consent at any time.[49]

F. A person may withdraw his consent to the testing of his blood at any point before that search is complete.

"One who consents to a search 'may of course delimit as he chooses the scope of the search to which he consents.'"[50] When consent, previously given, is modified, limited, or withdrawn, this must be done by an unequivocal act or statement.[51] "Withdrawal of consent need not be effectuated through particular 'magic words,' but an intent to withdraw consent must be made by unequivocal act or statement."[52]

There is no reason why the search of a blood sample should be treated as categorically different than the search of a cell phone, an automobile, or a dwelling. Consent to an evidentiary chemical blood analysis may be withdrawn, just as one may withdraw consent to any other Fourth-Amendment search. For example, a person might

---

[49] ***State v. Wantland***, 355 Wis. 2d 135, 152, 848 N.W.2d 810 (2014).
[50] ***State v. Matejka***, 2001 WI 5, ¶ 37, 241 Wis.2d 52, 621 N.W.2d 891 (*quoting* ***Florida v. Jimeno***, 500 U.S. 248, 252, 111 S. Ct. 1801 (1991)).
[51] ***Wantland***, 355 Wis. 2d 135, 152, 848 N.W.2d 810 (2014).
[52] ***United States v. Sanders***, 424 F.3d 768, 774 (8th Cir. 2005) (*quoting* ***United States v. Gray***, 369 F.3d 1024, 1026 (8th Cir. 2004)); *see also* ***United States v. Alfaro***, 935 F.2d 64, 67 (5th Cir. 1991); ***Payton v. Commonwealth***, 327 S.W.3d 468, 478 (Ky. 2010).

consent to the search of a house but withdraw that consent before the search is completed. It would clearly be unacceptable for law enforcement officers to ignore the withdrawal of consent and remain in the house solely because of the initial consent.[53]

When the search at issue is the scientific analysis of blood, the duration of the search is typically stretched over days or weeks rather than the minutes or hours that might be involved in the search of a home or automobile. But the relevant time period being longer or shorter does not change the basic legal principles.[54] If the consent is withdrawn before the search is completed—whether that is several minutes or several days after consent is initially provided—any search must immediately cease.

The analysis must begin with ***Schmerber v. California***, a 1966 United States Supreme Court case that addressed a slew of constitutional challenges to a blood draw in an operating while under the influence case.[55] The ***Schmerber*** Court found, inter alia, that the Fifth Amendment's right against self-incrimination does not preclude the police from obtaining a blood sample and that the Sixth

---

[53] *See e.g.* ***United States v. Buckingham***, 433 F.3d 508, 513 (6th Cir. 2006), ***Painter v. Robertson***, 185 F.3d 557, 567 (6th Cir. 1999) (holding that upon a revocation of consent the search should be terminated instantly, and the officers should promptly depart the premises).

[54] *See* ***United States v. Casellas-Toro***, 807 F.3d 380 (1st. Cir. 2015) (where, when the defendant's automobile was searched 21 days after he provided consent, it was held that the search was still justified by the defendant's initial and un-retracted consent).

[55] ***Schmerber v. California***, 384 U.S. 757 (1966).

Amendment did not afford the defendant the right to an attorney prior to the blood sample being collected.[56] But the ***Schmerber*** Court also held that a blood draw *does* fall within the protection of the Fourth Amendment:

> It could not reasonably be argued, and indeed respondent does not argue, that the administration of the blood test in this case was free of the constraints of the Fourth Amendment. Such testing procedures plainly constitute searches of 'persons,' and depend antecedently upon seizures of 'persons,' within the meaning of that Amendment.[57]

The Court then went on to find that the collection of the defendant's blood was a lawful warrantless search and seizure because of the existence of exigent circumstances.[58]

Schmerber was followed in 1983 by ***South Dakota v. Neville***, which addressed the question of whether the refusal to take a test was admissible as consciousness of guilt.[59] The defendant argued that his refusal was protected by the Fifth Amendment and commentary on his refusal at trial would thus be unconstitutional.[60] The ***Neville*** Court, following ***Schmerber***, found that a refusal was not protected by the Fifth Amendment.[61] ***Neville*** also addressed, and denied, a Fifth

[56] ***Id.*** at 761, 766.
[57] ***Id***. at 767.
[58] ***Id.*** at 770–71.
[59] ***South Dakota v. Neville***, 459 U.S. 553 (1983).
[60] ***Id.*** at 556.
[61] ***Id.*** at 564.

Amendment due process claim.[62] It did not address the Fourth Amendment.

The cases cited by the State fall into a noticeable pattern—they do not address the Fourth Amendment. ***State v. Reitter***, in 1999, addressed issues of statutory construction, due process, and the right to counsel.[63] ***State v. Lemberger***, in 2017, was a rehashing of the issue in ***Neville***: a claim that commentary on the defendant's refusal was barred by the Fifth Amendment.[64]

None of the cases cited by the State support a notion that the Fourth Amendment ceases to protect a citizen who has been arrested for OWI. Indeed, ***Schmerber*** explicitly states that the Fourth Amendment *does* apply to OWI blood draws, and the State's exact position on this subject failed to obtain a majority in ***State v. Brar***.[65] The caselaw establishes that a person does not have the right to refuse a blood draw under Wis. Stat. § 343.305 without statutory penalties being applied, that a refusal may be used against a person in court, and that a person does not have the right to consult with an attorney before making the decision. But the Fourth Amendment cannot simply be abrogated by statute. The implied consent law creates a penalty structure to help the police obtain consent—but the existence

[62] ***Id.*** at 566.
[63] ***State v. Reitter***, 227 Wis. 2d 213, 595 N.W.2d 646 (1999).
[64] ***Lemberger***, 2017 WI 39, ¶ 21.
[65] ***Schmerber v. California***, 384 U.S. at 767; ***Brar***, 2017 WI 73.

of this law and this penalty structure only serve to highlight that the collection of the blood is still being justified by the subject's consent. Questions of consent to search fall within the scope of the Fourth Amendment.

G. Mr. Lane properly withdrew his consent.

Before any analysis occurred, Mr. Lane sent a letter to the laboratory, the arresting law enforcement agency, and the District Attorney's office. The letter explicitly stated that he, "revokes any previous consent that he may have provided to the collection and analysis of her blood, asserts his right to privacy in his blood, and demands that no analysis be run without [a warrant]."[66]

This letter was clear and direct. "The standard for measuring the scope of a suspect's consent under the Fourth Amendment is that of 'objective' reasonableness—what would the typical reasonable person have understood by the exchange between the officer and the suspect?"[67] Any reasonable person reading this letter would understand that Mr. Lane withdrew consent to blood analysis and had asserted his right to privacy. The trial court made a factual finding that Mr. Lane properly withdrew his consent to his blood sample's analysis. The State does not challenge this finding.

---

[66] R.24 at 2; 4.

[67] ***Jimeno***, 500 U.S. at 251, (*citing* ***Illinois v. Rodriguez***, 497 U.S. 177, 183–89, 110 S. Ct. 2793; ***Florida v. Royer***, 460 U.S. 491, 501–02, 103 S. Ct. 1319, 75 L.Ed.2d 229 (1983)).

The Wisconsin State Laboratory of Hygiene disregarded Mr. Lane's letter and conducted an ethanol analysis of his blood sample.[68] This analysis was an unlawful search. The government's only justification for testing Mr. Lane's blood was that it was a search pursuant to voluntary consent. But Mr. Lane, through his letter to the laboratory, clearly and unequivocally withdrew that consent before the analysis took place. Therefore, the government's analysis of his blood sample was an unlawful search and seizure in violation of the Fourth Amendment to the United States Constitution and article I, section 11 of the Wisconsin Constitution, and the results of the analysis were properly suppressed.

[68] R. 24 at 5.

CONCLUSION

Because of the personal information contained within it, Mr. Lane retained a privacy interest in his drawn blood. Under the Fourth Amendment of the federal Constitution and the corresponding Wisconsin constitutional provisions, Mr. Lane had a right to withdraw his consent to the analysis of his blood sample. Any analysis performed on his drawn blood was thus an unlawful search.

For all the reasons stated, the judgment of the trial court should be affirmed.

Dated at Madison, Wisconsin, _____, 2019.

Respectfully submitted,

JOHN W. LANE,
Defendant-Respondent

TRACEY WOOD & ASSOCIATES
Attorneys for the Defendant-Respondent
One South Pinckney Street, Suite 950
Madison, Wisconsin 53703
(608) 661-6300

BY: _____
TEUTA JONUZI
State Bar No. 1098168

BY: _____
TRACEY A. WOOD
State Bar No. 1020766

CERTIFICATION

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

Proportional serif font: Min. printing resolution of 200 dots per inch, 13-point body text, 11 points 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 4433 words.

I further certify that the text of the electronic copy of the brief is identical to the text of the paper copy of the brief.

Dated: _____, 2019.

Signed,

_____
TEUTA JONUZI
State Bar No. 1098168

CERTIFICATION

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 § 809.19(2)(a) and that contains, at a minimum:

(1) a table of contents;
(2) the findings or opinion of the circuit court; and
(3) 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 notion that the portions of the record have been so reproduced to preserve confidentiality and with appropriate references to the record.

Dated: _____, 2019.

Signed,

_____
TEUTA JONUZI
State Bar No. 1098168

TABLE OF CONTENTS