STATE OF WISCONSIN

COURT OF APPEALS – DISTRICT III

Case No. 2019AP1105 - CR

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

ANGELINA M. HANSEN,

Defendant-Appellant.

Appeal of a judgment and an order
entered in the Outagamie County Circuit Court,
the Honorable Vincent R. Biskupic, Presiding

BRIEF AND APPENDIX OF DEFENDANT-APPELLANT

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ISSUES PRESENTED

Angelina Hansen was charged with violating a court order setting the conditions under which her children were to be physically placed with her. "Physical placement" is a statutory term that denotes parental authority to make decisions about a child's daily care. During her trial, though, the jury was repeatedly told that the order restricted her from "visiting" or having "visitation" with those children. The jury convicted Ms. Hansen of violating her physical placement conditions by visiting her children at school while they were eating lunch. Was the evidence sufficient to support this conviction?

The trial court said the evidence was sufficient. This court should reverse.

Ms. Hansen was also charged with reckless endangerment and obstruction because of her interactions with a school-liaison officer as she left the campus. Did her trial counsel provide ineffective assistance by first, failing to object to the repeated mischaracterizations of the family court order, and second, by failing to play a video of Ms. Hansen's interrogation in which she denied having pushed the officer with her vehicle, after the interrogating officer's testimony suggested that she had admitted doing so?

The trial court said counsel was not ineffective. This court should reverse.

STATEMENT ON ORAL ARGUMENT AND PUBLICATION

Ms. Hansen does not request oral argument or publication; the briefs should be sufficient to present the issues, and the case requires only the application of established law to particular facts.

STATEMENT OF THE CASE AND STATEMENT OF FACTS

Overview of facts and procedure

The state charged Angelina Hansen with three offenses, all arising from an incident at her children's school. (2:1). Ms. Hansen had showed up during her triplets' lunch hour, and sat with them at their table. The children were in fourth grade. (97:83). When a teacher asked Ms. Hansen if she was the children's mother, she responded that she was their aunt. (97:80). The teacher asked Ms. Hansen to follow her to the office to sign in; Ms. Hansen instead left the building. (97:81). She returned a moment later, signed illegibly on the sign-in form, and left. (97:93).

The school's liaison officer and superintendent approached Ms. Hansen as she was walking away. (97:95). The officer called out that he wanted to talk with her, but she continued to her vehicle, a white SUV, and started the engine. The officer stood in front of the vehicle, preventing it from pulling out of its parking spot. (97:97). This encounter lasted for several minutes, with the officer asking Ms. Hansen to exit the vehicle and talk; she would back the

vehicle up and move it forward. (97:97-102). Finally, the officer moved quickly out of the way as Ms. Hansen pulled forward and to the right, exiting the parking lot. (98:52-53).

Another officer eventually located Ms. Hansen's vehicle at a residence and found her inside. (98:61-36,69). He spoke with her for a few minutes and then arrested her. He interrogated her at the police station. (77).

The charges against Ms. Hansen were second-degree recklessly endangering safety (for her actions in the vehicle), obstructing an officer, and contempt of court (for having contact with her children)—specifically, for violating an order of the family court that had adjudicated Ms. Hansen's divorce. (2:1-3)

Ms. Hansen went to trial and was convicted of all counts. Postconviction, she challenged all three convictions. She claimed that trial counsel had been ineffective for not using a video to impeach the interrogating officer's description of her statements to him. (72:5-9). She also alleged that the family court order she was supposed to have violated did not, in fact, prohibit her from visiting her children; she raised this issue in terms of both ineffective assistance (for its impact on her credibility as to all counts) and sufficiency of the evidence (seeking dismissal on this ground of only the contempt of court count). (75:9-15).

The trial court held a *Machner* hearing and denied the motion in a written decision. (106; 81; App. 101-46). Ms. Hansen appeals. (88).

Facts relevant to the family court order

The text of the order Ms. Hansen was said to have violated is:

> Pending report of guardian ad litem, and further order of the Court, Father shall have primary *physical placement* of the children. Mother shall have supervised *placement* only, once per week for 2 to 4 hours each time as can be arranged to be supervised by Parent Connection or Family Services or another supervisor acceptable to Father.

(36:1 (emphasis added)).

This order was received into evidence. (97:120). However, throughout Ms. Hansen's trial, it was frequently and inaccurately described not as outlining her right to have "physical placement" of her children, but instead as prohibiting her from "visiting" them. Specifically:

- The children's father (Ms. Hansen's ex-husband) repeatedly said the order pertained to "supervised visits." The state used the same terminology during its questioning of the father. (97:118-19). Ms. Hansen's counsel never objected to these misstatements.

- The liaison officer testified that he was "aware" that "there needed to be supervised visitation" and that the ex-husband had told the school that Ms. Hansen was "not allowed in school without someone present." Ms. Hansen's counsel did not object or attempt to correct the record. (98:26).

- The interrogating officer testified about Ms. Hansen in a way suggesting she needed supervision or permission from her ex-husband to "visit" the children. There was no objection. (98:72).

- When Ms. Hansen testified, her counsel also questioned her in terms of "supervised visits" and the need for supervision or her ex-husband's permission. (98:89-90).

- On cross-examination, the State asked Ms. Hansen if she "[was] ordered to have supervised visits," to which she answered "Correct." (98:105). Ms. Hansen's counsel did not object or attempt to correct the record.

- Later during cross, Ms. Hansen was asked whether "that order that you got from Shawano County said that you had to clear any visitation or supervised placement with your ex," to which she

answered "Yes." Again, there was no objection. (98:114).

- The prosecutor also showed Ms. Hansen a copy of the family court order, and asked her "is there anything under that section that says you can have a brief visit at the school with your children?" (98:122). There was no objection.

- During jury instructions, the court told the jury that the state had to prove that "a court ordered the defendant to have only supervised visitation with her children." (98:148).

- In closing argument, the State again indicated that the family court "ordered her to have supervised visitation with her children," and repeatedly used the terminology of "visits" instead of "physical placement." Though the family court order did not concern visits, Ms. Hansen's lawyer did not object. (98:156-58).

- In her own closing, Ms. Hansen's counsel said that Ms. Hansen had "wanted to visit her kids that day" and "knew it had to be supervised." (98:172).

At the *Machner* hearing, trial counsel testified that she had been public defender her entire career and had never practiced family law. (106:3,18;

App. 111,126). She testified that she had not objected or made any issue regarding the fact that the family law order concerned physical placement, not visits, because "I didn't even know the difference." (106:25, 26; App. 133,134).

The circuit court denied Ms. Hansen's claims regarding the mischaracterizations of the family court order, relying on a passage from a 2010 court of appeals case, *Rick v. Opichka*, 2010 WI App 23, 323 Wis. 2d 510, 780 N.W.2d 159 to conclude that "physical placement" is not distinct from "visitation." (81:7-8; App. 107-08).

Facts relevant to the interrogation video

One of the factual disputes at Ms. Hansen's trial was how her vehicle had made contact with the officer while he was standing in front of it. The officer testified that he had physically prevented the vehicle from moving for a time by leaning against it, but that it began to accelerate such that it pushed him backward, and he jumped away. (98:34-36). Ms. Hansen maintained that while the officer had at times touched her vehicle, she had never moved it while he was in contact with it. (98:125). The only other eyewitness to this encounter, the school superintendent, said that the officer's body had been "very close" to the vehicle, but did not testify that there was actual contact. (97:98; 97:87-111).

During its cross examination of Ms. Hansen, the state asked her whether she had "nudged" the officer with her vehicle. She denied this, and she also

denied having admitted to doing so during her interrogation:

> Q. And at certain times during that you were nudging him with your vehicle, correct?
>
> A No. I never did that when he was touching my vehicle with his legs or anything that close.
>
> Q Well, what would nudge mean then?
>
> A I only said that I inched forward when I knew there was distance between us.
>
> Q Isn't it true that you told Sergeant Krzoska that you had nudged him with your vehicle?
>
> A No, I didn't. I got out and I asked him, I asked him to move so I wouldn't subsequently bump him with my vehicle. I asked him multiple times.
>
> Q So your testimony here today is that you didn't tell Sergeant Krzoska that you nudged him to get him out of the way?
>
> A No, I didn't.
>
> Q Is it true that you admitted to Sergeant Krzoska that as you were nudging forward, you were forcing [the liaison officer] to move?
>
> A No. It wasn't about necessarily any physical force to move, just to assert my right to leave.
>
> Q So at any point in time – so is your testimony here today that at no point in

> time you made contact with [the liaison officer] with your vehicle?
>
> A No.

(98:124-25).

In rebuttal, the state called the officer who had interrogated Ms. Hansen. It began by asking him again what Ms. Hansen had told him about the contact between her car and the officer on scene:

> Q I want to talk to you about a few things that came up during your conversation with her. First and foremost, when you were discussing the circumstances surrounding Ms. Hansen's operation of the motor vehicle and her contact with [the liaison officer], what if any particular terms did she use that you recall regarding that contact?
>
> A Specifically she used the term "nudge."
>
> Q Did you try to clarify that with her?
>
> A It was taken as she was trying nudge him out of the way or move him from the front of the vehicle.

(98:133).

In her postconviction motion, Ms. Hansen noted the conflicting testimony about whether she had pushed the officer with her vehicle. (72:5-9). She asserted that the video recording of the interrogation (77), which had been in trial counsel's possession, demonstrated that though she had used the word "nudge" to describe the forward motion of her vehicle,

she had denied moving the deputy with her vehicle. (72:7-8). The relevant conversation, as portrayed in the video, was:

> Q [H]ow close did you get to him?
>
> A I didn't just drive off. I nudged forward a very little bit to let him know I am pulling away, please … and I verbally continued to say, you're gonna have to…
>
> ….
>
> Q And how many times—you said you "nudged"—how many times do you think you "nudged" forward?
>
> A I didn't count. It's not something you pay attention in that moment.
>
> Q OK. And then, but as you're nudging, you're forcing him to back up?
>
> A Yeah, but not hitting him or making impact, I wouldn't, that's not—
>
> ….
>
> Q So, it's unknown how many times you "nudged" and basically forced your way through to get out?
>
> A Yeah. Not physically forced, I didn't move
>
> Q Vehicle forced.
>
> A I didn't use my car to push his body—
>
> Q No-no-no-no, I'm saying—but you forced him out of your way. I mean, we can paint

> it however you want. Because you kept nudging forward, he kept backing up.
>
> A [Nods affirmatively] Mm hm.

(71; 72:7-8).

The motion alleged counsel was ineffective for not playing this recording at trial, because it verified Ms. Hansen's testimony—that she hadn't admitted to pushing the officer with her vehicle—and contradicted the interrogating officer's rebuttal testimony that she had. (72:7-8).

At the *Machner* hearing, trial counsel testified that she had reviewed the recording before trial. (106:8; App. 116). She said she recalled that Ms. Hansen "did use the word 'nudge' in explaining what happened" though "in the context she was denying nudging the officer, but she did use the word 'nudge.'" (106:8; App. 116). She testified that she did not think Ms. Hansen had told the interrogating officer that she had pushed the liaison officer with her vehicle, and also that Ms. Hansen's statements in the video were consistent with the testimony she gave at trial. (106:9; App. 117).

Trial counsel testified that she'd thought about playing the video after hearing the interrogating officer's rebuttal testimony, but decided not to because

> I remembered in the video that Ms. Hansen did use the word 'nudge.' I was afraid that if I played the video where she's using the word 'nudge,' that would make it look like when she testified

> and said she didn't nudge the officer, that it would make it look like she was not being truthful. And so I had ultimately decided not to play the video.

(106:12; App. 120). She did not believe there was any other potential downside to playing the video. (106:12; App. 120). She again reiterated that she didn't want to play the video "because she is using the word 'nudge.' I don't think I wanted to draw attention to that. It did not occur to me that I could have used the video to, I guess, clarify what she meant." (106:16; App. 124).

The circuit court denied this claim as well. It said trial counsel's decision was a reasonable strategic choice, that the video was "cumulative" to Ms. Hansen's testimony and that failure to admit it was thus not prejudicial, and that Ms. Hansen's conduct after the incident provided "overwhelming" evidence of her guilt. (81:5-7; App. 105-07). The court also thought playing the video would have "opened the door" to detrimental information, though the information to which it referred had been introduced at trial. (81:6-7; App. 106-07).

ARGUMENT

I. Ms. Hansen's act of visiting her children at school did not violate any court order. This Court must reverse her conviction for contempt of court and direct a judgment of acquittal.

A reviewing court will overturn a jury verdict only where "the evidence is so lacking in probative value and force that no reasonable jury could have concluded, beyond a reasonable doubt, that the defendant was guilty." *State v. Long*, 2009 WI 36, ¶19, 317 Wis. 2d 92, 765 N.W.2d 557. Whether the evidence was insufficient is a question of law, so this court does not defer to the trial court's ruling. *State v. Tolliver*, 149 Wis. 2d 166, 172, 440 N.W.2d 571 (Ct. App. 1989). The meaning of the statutory term "physical placement" in the family court order is, of course, a question of law as well. *Lubinski v. Lubinski*, 2008 WI App 151, ¶5, 314 Wis. 2d 395, 761 N.W.2d 676.

The court order Ms. Hansen is charged with violating awarded her between two and four hours of "physical placement" with her children per week. It also imposed a condition under which she was entitled to that placement: that it be supervised, either by certain named entities or by someone else agreed to by the children's father. It's important to note up front that these hours of physical placement were a legal *entitlement* of Ms. Hansen's—not, as the children's father (along with the liaison officer, the prosecutor, and ultimately the circuit court) seemed

to think, a no-contact order forbidding any other interaction with the children.

As Ms. Hansen's postconviction counsel noted, "physical placement" is a legal term of art in Wisconsin. It's defined, in Wis. Stat. § 767.001(5), as "the condition under which a party has the right to have a child physically placed with that party and has the right and responsibility to make, during that placement, routine daily decisions regarding the child's care, consistent with major decisions made by a person having legal custody." And "major decisions"—i.e. those decisions that are *not* necessarily committed to the discretion of a parent exercising "physical placement" rights—are further defined as truly *major* ones: "includ[ing], but … not limited to, decisions regarding consent to marry, consent to enter military service, consent to obtain a motor vehicle operator's license, authorization for nonemergency health care and choice of school and religion." Wis. Stat. § 767.001(2m).

So a parent with "physical placement" is, during those placement times, empowered to *parent*—to make all sorts of decisions about and for the child. The law denies such a parent only the most serious decisions: those involving long-term commitments, legal obligations, and the like. "[W]hile physical placement encompasses the act of having a child physically present with the parent, it also grants that parent rights consistent with legal custody." *Lubinski*, 314 Wis. 2d 395, ¶8.

This legal concept—the right to have children "placed with" one, and to make certain decisions about their care—is a very different one from either the legal concept of "visitation" or the commonsense notion of "visiting." "Visitation," in Wisconsin, is not a term that's applicable to parents, but only to other relations—grandparents, great-grandparents, step-parents, and others who have "maintained a relationship similar to a parent-child relationship with the child." Wis. Stat. § 767.43.

Importantly, visitation "does not incorporate the rights associated with legal custody or physical placement. Instead, it allows certain people who have established parent-child relationships with children to maintain contact with those children following actions affecting the family unit, when such contact is in the best interest of the child." *Lubinski*, 314 Wis. 2d 395, ¶9. This is in accord with the usual meaning we ascribe to the word "visit": "to go or come to see" or "to stay with a guest." *Id.*

The simple act of going to see a child is thus completely distinct from having "physical placement" of that child. When she sat down at her children's school lunch table to greet and hug them, Ms. Hansen was no more exercising "physical placement" than would any other person who did the same—whether that person be a relative, friend, or acquaintance. She was not "mak[ing] routine daily decisions regarding the child[ren]'s care" nor exercising "rights consistent with legal custody."

What she was doing was visiting them, in the same colloquial sense that anyone might.

Her ex-husband and the school staff (who'd apparently been misinformed by the ex-husband) thought the court had entered a species of no-contact order that prevented Ms. Hansen from even seeing the children for 164 of the 168 hours in any given week. But it hadn't; it had only set the hours and terms of her right to exercise custodial supervision over them. Ms. Hansen violated the school's policy on signing in. She may also have violated common sense by misinforming school staff about her identity. But she didn't take "physical placement" of the children, so the she didn't violate the court's order.

The circuit court court's conclusion to the contrary is founded in a misreading of *Opichka*, 323 Wis. 2d 510. In that case, the circuit court awarded grandparent visitation rights including one weekend per month, and one week each summer, at the grandparents' home. *Id.*, ¶2. The children's father appealed, arguing that this grant of "visitation" was so broad as to amount to "physical placement," which the statutes permit only to parents.

This Court disagreed for two reasons. First, it noted that the statutes do not specify any amount of time that is particular to physical placement or to visitation—the distinction between the two legal statuses isn't one of quantity. *Id.*, ¶12. It went on:

> We believe that when children visit their grandparents and stay with them as a guest, the

> grandparents have the responsibility to make routine daily decisions regarding the child's care but may not make any decisions inconsistent with the major decisions made by a person having legal custody. The same is true of a parent who does not have joint legal custody, but does have a right to physical placement. In both instances, the same rules apply: routine daily decisions may be made, but nothing greater. Examples of these minor matters are what and when to eat, what clothes to wear and when to go to bed. Therefore, the amount of time spent on the visit, whether for a few hours or an overnight is still a visit. The proper amount of that time is a decision made by the family court in the best interests of the children. In sum the quantity of time ordered does not depend on whether it is a visitation order or a physical placement order.

Id., ¶13 (citation omitted).

Opichka was a two-judge majority decision; Judge Snyder dissented. *Id.* ¶¶23-30. He argued that the majority opinion was inconsistent with *Lubinski*, a prior (and binding) court of appeals case. His view was that by permitting the grandparents to host their children in the home against the wishes of the father, the court was necessarily expanding "visitation" (which, as noted above, entails "contact" but not the right to make decisions for the child) "into something indistinguishable from physical placement." *Id.*, ¶30.

But it doesn't matter, for purposes of this case, whether the majority or dissent in *Opichka* was correct. Even accepting the majority's more expansive view of the permissible scope of a "visitation" order, it provides no support for the circuit court's conclusion

here: that *any* contact with a child constitutes "physical placement." The court said:

> In terms of practical authority granted to a parent, however, the Wisconsin Court of Appeals has found that, while placement and visitation are not the same, there is no meaningful difference between types of decisions that can be made under a grant of "physical placement" and a grant of "visitation" for a parent. *Id.* at ¶ 13-14. In *In re Opichka*, the Court of Appeals explained that placement is granted to the parent without primary placement where custody is not equally shared, and visitation is usually granted to persons with a parent-like relationship with the child. *Id.* But, the court continued, "[i]n both instances, the same rules apply." *Id.* Therefore, whether Hansen's rights under the family court order were described as "placement" or "visitation" had no discernable impact on what authority she had with respect to the children. Thus, the use of placement or visitation did not have an impact on whether she in fact violated the family court order.

(81:7; App. 107).

Contrary to the court's suggestion, Ms. Hansen, by sitting down at her children's table—surrounded by other students and teachers—was not exercising any "authority" over them. If the circuit court were correct, divorced parents could never be in the same room with each other and their children: one of them would necessarily be violating the physical placement rights of the other. Saying hello to a child or giving a hug is not "exercising rights consistent with legal custody." Ms. Hansen did not violate the family court order.

Because the violation of that order was the foundation of the contempt charge, and there was no evidence that Ms. Hansen violated it, the remedy is a judgment of acquittal. *See*, *e.g.*, *State v. Wulff*, 207 Wis. 2d 143, 144, 557 N.W.2d 813 (1997).

II. Trial counsel was ineffective for failing to challenge the misrepresentation of the court order, and for failing to introduce the interrogation video.

A defendant alleging ineffective assistance of counsel must satisfy a two-part test, showing both that counsel performed deficiently and that the deficient performance prejudiced his or her defense. *Strickland v. Washington*, 466 U.S. 668, 687 (1984). To demonstrate deficient performance, the defendant must show that his or her counsel's representation "fell below an objective standard of reasonableness." *State v. Carter*, 2010 WI 40, ¶22, 324 Wis. 2d 640, 782 N.W.2d 695. An error is prejudicial if there is reasonable probability that that it affected the result of the trial. *Strickland*, 466 U.S. at 694. A "reasonable probability" is not a high burden; it's lower even than the civil "preponderance of the evidence" standard. *Id.* When trial counsel has committed more than one error, prejudice is assessed "based on the cumulative effect of counsel's deficiencies." *State v. Thiel*, 2003 WI 111, ¶59, 264 Wis. 2d 571, 665 N.W.2d 305.

Ms. Hansen's counsel made two unreasonable errors at trial. The first, discussed above, is failing to challenge the repeated mischaracterizations of the

court order Ms. Hansen was wrongly charged with violating. This error most directly affected the contempt-of-court charge, but it also damaged Ms. Hansen's credibility, which was at issue for the other two counts. As the prosecutor said in closing, "There is a court order. Does she listen? No." (98:170).

Counsel's second error was failing to impeach the interrogating officer's testimony with the interrogation video. Ms. Hansen testified that she'd never said, during the interrogation, that she'd "nudged" the liaison officer with her vehicle; the interrogating officer said she'd admitted she "was trying to nudge him out of the way." As counsel agreed at the *Machner* hearing, the video showed that while Ms. Hansen used the word "nudge" during the interrogation, "in the context she was denying nudging the officer." (106:8; App. 117). Thus, counsel agreed, the video was consistent with Ms. Hansen's testimony and inconsistent with the interrogating officer's. (106:9; App. 118).

Counsel's reason for not playing the video was that "I was afraid that if I played the video where she's using the word 'nudge,' that would make it look like when she testified and said she didn't nudge the officer, that it would make it look like she was not being truthful." (108:12; App. 120). She added that "It did not occur to me that I could have used the video to, I guess, clarify what she meant." (108:16; App. 124).

While latitude is allowed for the strategic decisions of trial counsel, those decisions must be reasonable. *Strickland*, 466 U.S. at 690-91. In this case, it's clear from context that Ms. Hansen was using the word "nudge" unconventionally: meaning to move oneself slightly. But the interrogating officer's testimony suggested she'd admitted to pushing the liaison officer's body with her car. The video would have shown that Ms. Hansen, in fact, consistently denied this.

Trial counsel's reason for not playing the video was that she didn't want the jury to see that Ms. Hansen used the word "nudge" during the interrogation. This rationale is unreasonable because Ms. Hansen never denied using the word "nudge"—she denied having admitted to "nudging" the officer's body. The video, as trial counsel acknowledged, would have shown that she was correct about this. Trial counsel's choice not to play it was not a reasonable strategic decision.

This error was prejudicial because it harmed Ms. Hansen's credibility. By making it seem as if she'd changed her story—and was thus lying on the stand—it encouraged the jury to discredit her claim that she'd never actually driven her vehicle against the officer's body. And that could easily have made a difference in the jury's deliberations on the reckless endangerment count: scooting one's vehicle slightly forward while a person stands some distance away is a very different thing from actually pushing a person with one's bumper. The latter plainly creates a

greater risk of death or great bodily harm, and shows a greater indifference to that risk. This difference in risk and in mental state—two components of the element of "recklessness," WIS JI 1347—is enough to create a reasonable probability of acquittal, had the jury seen the video bolstering Ms. Hansen's account.

Moreover, the damage to Ms. Hansen's credibility mattered not just for the reckless endangerment count, but for the obstruction count. One of the elements of that crime is that the defendant must have known that they were dealing with *an officer*. *State v. Lossman*, 118 Wis. 2d 526, 536, 348 N.W.2d 159 (1984). Here, the officer Ms. Hansen was alleged to have obstructed was not in uniform. (98:29). He testified that he'd identified himself as one; she testified that she had believed him to be a security guard or counselor. (98:42-45; 95). She also denied having seen the sidearm and badge at his waist while he was in front of her car. (98:100). If Ms. Hansen's account was true, then she could not have committed the crime of obstruction. But by failing to play the interrogation video, Ms. Hansen's counsel permitted the state to paint her as having lied on the stand. Thus, just as with the reckless endangerment count, there's a reasonable probability that the failure to repair her credibility affected the jury's decision.

CONCLUSION

Because there was insufficient evidence that Ms. Hansen violated a court order (and she in fact did not), Ms. Hansen respectfully requests that this court vacate her conviction for contempt of court and remand with directions that a judgment of acquittal be entered on that count. As to the remaining two counts, Ms. Hansen requests that this court vacate her convictions and remand for a new trial.

Dated this 23rd day of September, 2019.

Respectfully submitted,

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CERTIFICATIONS

I hereby certify that this brief conforms to the rules contained in § 809.19(8)(b) and (c) for a brief produced with a proportional serif font. The length of this brief is 4,587 words.

I hereby certify that I have submitted an electronic copy of this brief, excluding the appendix, if any, which complies with the requirements of § 809.19(12). I further certify that this electronic brief is identical in content and format to the printed form of the brief filed on or after this date.

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; (3) a copy of any unpublished opinion cited under § 809.23(3)(a) or (b); and (4) 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 one or more initials or other appropriate pseudonym or designation 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.

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 23rd day of September, 2019.

Signed:

_____

ANDREW R. HINKEL
Assistant State Public Defender

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