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SUPREME COURT

STATE OF WISCONSIN

IN SUPREME COURT

No. 2019AP2065-CR

STATE OF WISCONSIN,

Plaintiff-Respondent-Petitioner,

v.

RICHARD MICHAEL ARRINGTON,

Defendant-Appellant.

PETITION FOR REVIEW AND APPENDIX

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INTRODUCTION

The State of Wisconsin petitions this Court for review of the court of appeals' decision in *State v. Richard Michael Arrington*, No. 2019AP2065-CR, 2021 WL 1256717 (Wis. Ct. App. Apr. 6, 2021) (unpublished) (recommended for publication). (Pet-App. 101–23.)

A jury convicted Arrington of first-degree intentional homicide. At trial, a confidential informant (CI) testified that while he was in jail with Arrington, Arrington started talking to the CI about the homicide. The CI approached police and asked if he should record Arrington, and the police said, Yes. The CI then recorded conversations with Arrington, and three audio excerpts were admitted at trial. Defense counsel did not object to the admission of the recordings.

Postconviction, one of Arrington's claims was that defense counsel was ineffective for failing to move to suppress the recordings and the CI's testimony. Because he was represented by counsel before the recordings, Arrington argued, counsel should have moved to suppress and argued that the State violated his Sixth Amendment right to counsel. The circuit court rejected Arrington's arguments, issuing multiple factual findings. It concluded that counsel was not ineffective when he did not move to suppress because there was no violation.

The court of appeals reversed. It concluded that "the State violated Arrington's Sixth Amendment right to counsel when [the CI] made the recordings of conversations with Arrington while acting as an agent of the State." (Pet-App. 102.) Therefore, given the violation, counsel was ineffective when he failed "to seek suppression or otherwise object to the admission of the recordings." (Pet-App. 102, 118.)

This Court should accept review, affirm the trial court, reinstate Arrington's conviction, and reverse the court of appeals.

ISSUES PRESENTED FOR REVIEW

1. Did Arrington prove that his counsel was ineffective for failing to move to suppress the CI's recordings and testimony on Sixth Amendment grounds?

After testimony provided at a *Machner* hearing, the circuit court concluded: No.

The court of appeals reversed and concluded: Yes.

2. Did Arrington prove that the State violated his Sixth Amendment right to counsel?

After issuing extensive factual findings, the circuit concluded: No.

The court of appeals reversed and concluded: Yes.

STATEMENT OF CRITERIA SUPPORTING REVIEW

As Arrington argued to the court of appeals, "the [S]tate's use of a confidential informant to record conversations with jail inmates whose right to counsel has attached is novel." (Arrington's COA Br. 2, Pet-App. 124.) It "is novel given that there is only one reported case in this state involving statements obtained by a jail informant. *See State v. Lewis,* 2010 WI App 52, 324 Wis. 2d 536, 781 N.W.2d 730." (Arrington's COA Br. 2, Pet-App. 124.) Thus, review in this case will help develop and clarify the law on an issue of statewide importance. Wis. Stat. § (Rule) 809.62(1r)(c).

The issues presented by this petition present two Sixth Amendment claims: ineffective assistance and a right-to-counsel violation, which are both "real and significant questions of federal . . . constitutional law." *See* Wis. Stat.

§ (Rule) 809.62(1r)(a). Finally, review is warranted because the court of appeals' opinion "is in conflict with controlling opinions of" this State. Specifically, the court of appeals' decision conflicts with its decision in *State v. Lewis,* 2010 WI App 52, 324 Wis. 2d 536, 781 N.W.2d 730. Wis. Stat. § (Rule) 809.62(1r)(d).

STATEMENT OF THE CASE

Pre-trial and trial proceedings

The State charged Arrington with first-degree intentional homicide for the shooting death of Ricardo Gomez, and it also charged Arrington with felon in possession of a firearm. (R. 2; 73.) At trial there was no dispute that Arrington fired shots from a car towards the house where Gomez stood. (R. 275:96.) Arrington's defense was that he shot in self-defense, as he believed that a person standing next to Gomez (who went by the name "Shorty") was going to shoot him. (R. 275:94–97.) According to Arrington, it was Shorty who shot Gomez when Shorty was really trying to shoot Arrington. (R. 275:97–98, 146.)

CI Jason Miller testified that (after Arrington had been charged and represented by counsel) he had recorded conversations with Arrington when they were in the county jail. (R. 275:10.) Before Miller testified, the State requested to admit and play audio excerpts. (R. 275:6–7.) Defense counsel acknowledged to the court that he had the excerpts "for quite some time" and that he had reviewed them "long before trial." (R. 275:7.) He informed the court he had "no objection." (*Id.*)

Miller testified at trial that "in the beginning [Arrington] asked me to read his Criminal Complaint, asked me to – did I think there was enough there." (R. 275:13.) Arrington told him that he saw Gomez knock at Taylor's door, and Shorty opened it. (R. 275:17.) Arrington saw that Shorty noticed him, and Shorty said to Arrington, "What's up?" (*Id.*)

All Arrington could think about was a past incident where Shorty stabbed him, and the next thing that happened is that Arrington "just got to shooting." (R. 275:18.) Arrington told Miller that he (Arrington) "had a fucked-up aim," and that "when he got to shooting, Shorty jumped back, and when he jumped back, it hit [Gomez]." (R. 275:18–19.)

The State played the three recorded excerpts. (R. 275:19.) In one excerpt, Arrington stated that he "dumped down on the crib," which Miller testified meant that Arrington kept shooting at Taylor's house. (R. 275:28.)

Arrington testified at trial that on the day of the homicide, he, A.V.T., and Devin Landrum drove to the house next door to Taylor's to "pick up some marijuana." (R. 275:90.) Arrington parked in front of Taylor's house, Landrum left the car to get marijuana, and A.V.T. stayed in the car. (R. 275:91.) Arrington saw Gomez walk to Taylor's front porch, and Shorty opened the door. (R. 275:92, 135.) Shorty saw Arrington and, according to Arrington, Shorty "just start going crazy." (*Id.*) Arrington thought he saw Shorty reach for a gun, but admitted that he actually didn't *see* a gun. (R. 275:94.) Regardless, Arrington "reached into the side door and grabbed my gun from the side door," and "fired three shots out the window." (R. 275:95.) Arrington did not shoot directly at Gomez and Shorty, but "shot at the porch area, feet area of the porch," so that "nobody [would] be hurt." (*Id.*) As Arrington then drove away, he looked over his shoulder "and what I seen was Shorty come around the door with the gun in his hand at the same time that [Gomez] was coming into the house, and what it looked like to me was that Gomez had been shot by [Shorty]." (R. 275:97.)

The jury found Arrington guilty. (R. 276:143.)

The Machner hearing and postconviction decision

Postconviction, one of Arrington's claims was that he was entitled to a new trial due to ineffective assistance of counsel. (R. 219:10, 12.) Arrington argued his counsel was ineffective when he "fail[ed] to prevent the state from using at trial Arrington's statements to the jail informant." (R. 219:10.)

The court held a *Machner*[1] hearing. Detectives Michael Wanta and Linzmeier testified, as well as Arrington and Arrington's trial counsel, Michael Hughes. (R. 278.) Hughes testified that before trial, he was aware that Miller was working as a confidential informant and that Miller had access to Arrington. (R. 278:9.) Hughes was also aware before trial that Miller had recorded conversations, and that Miller had the ability to turn off the recorder at will. (R. 278:10.) He testified that at no time before or during trial did he consider moving to suppress the recordings, nor did he research the issue. (R. 278:11.) After he reviewed some of the cases cited in Arrington's postconviction motion, Hughes testified that he believed he likely would have filed a suppression motion had he been aware of them. (R. 278:22.)

Detective Wanta testified that in early April 2016, Miller became an informant for him on a homicide case involving a suspect named Antwon Powell. (R. 278:29.) Wanta "became aware of Mr. Miller's request to speak with law enforcement" when Miller's attorney contacted "the district attorney's office which passed it on to the police department." (*Id.*) Wanta then met with Miller at the jail. (R. 278:31.) Wanta testified that he was aware that Miller was seeking consideration, but that he was not involved because "[t]hat is done by the District Attorney." (R. 278:32.) Miller told Wanta

[1] *State v. Machner*, 92 Wis. 2d 797, 804, 285 N.W.2d 905 (Ct. App. 1979).

that "Arrington was talking with him and he believed that Mr. Arrington would tell him things about the case and he asked if he should record it." (R. 278:36.) According to Wanta, "we said if you want to record the conversation you can." (R. 278:40.) Between April 13–16, police provided Miller with a digital recording device. (R. 278:35, 38.) When asked, "Did you give any direction to Mr. Miller as to what type of questions to ask?" Wanta replied, "I did not." (R. 278:43.) When asked, "Did you ever direct Mr. Miller to speak with Mr. Arrington?" Wanta replied, "Mr. Miller approached us or myself about speaking with Mr. Arrington and we said it was okay or we said he could record conversations." (R. 278:46.) Finally, when asked if Miller ever received consideration for his recordings, Wanta replied, "I believe he did not receive the consideration." (*Id.*)

Consistent with Wanta's testimony, Linzmeier testified that "Miller informed us that Mr. Arrington was talking about his case. And . . . I recall Mr. Miller saying he didn't know why Arrington felt comfortable speaking with him but he did and he asked if he should record any of those conversations." (R. 278:51.) Linzmeier told him, "Yes." (*Id.*) Like Wanta, Linzmeier testified that he did not give any direction to Miller to either question or speak to Arrington. (*Id.*)

Arrington testified that he believed he asked Attorney Hughes if there was a way to keep out the recordings, and Hughes told him "that the recordings really didn't matter because they didn't – he couldn't really hear much on 'em." (R. 278:75.) When asked if *he* could hear what was on the recordings, Arrington admitted, "Not really." (*Id.*)

The postconviction court concluded that Miller was not acting as an agent for the State when he recorded the conversations. (R. 247:3.) Therefore, Arrington's Sixth Amendment right to counsel was not violated. (*Id.*) The court provided multiple reasons for its decision. (R. 247:3–7.) First,

"[t]he State did not put Mr. Miller and Mr. Arrington together in [the same jail pod]. It was a coincidence." (R. 247:3.) Second, defense counsel for Miller approached the district attorneys' office about Miller "voluntarily contributing information to the police which prompted the police to have a discussion with [Miller] about being a confidential informant." (R. 247:4.) "The police never approached Mr. Miller about recording Mr. Arrington." (*Id.*) Third, Miller "voluntarily asked the police if he should record any information from Mr. Arrington, and the detective informed him that he could record such conversations." (*Id.*)

Citing *Lewis*, 324 Wis. 2d 536, ¶ 25, the court concluded, "when a person offers assistance to the police, we do not think the police must try to stop the person from providing assistance." (R. 247:4.) And, "it is not the government's burden to protect a defendant from their own 'loose talk.'" (*Id.*) In this case, "Miller made requests to speak to law enforcement. Not vice versa." (*Id.*) Fourth, police "made no promises to Mr. Miller that the fact that he was giving information would lead to a reduced sentence." (R. 247:4–5.) Fifth, "Arrington began talking to Mr. Miller about his case without Mr. Miller prompting the conversation." (R. 247:5.) "The police could not listen in on any conversation, and had not told what questions Mr. Miller should ask Mr. Arrington." (*Id.*) Further, "Arrington volunteered information to Mr. Miller without being prompted by" Miller. (*Id.*) Sixth, Arrington was not the target of the investigation (Antwon Powell was), which shows "a lack of intent to make Mr. Miller a police agent." (R. 247:6.) The court again noted that "Miller voluntarily asked the police on his own initiative if he should record Mr. Arrington, and he was under no obligation to do so." (*Id.*) "Further," the court found, "the police never made any promise to Mr. Miller in terms of what he will receive for his cooperation." (*Id.*) Rather, "Miller was acting with the hope that the prosecutors in his case would give him a more

lenient sentence which is very similar to the confidential informant in *Lewis*, a primary source of law on this issue in Wisconsin, who was found to not be an agent of the State." (*Id.*)

Seventh, "the police did not even use the taped conversation of Mr. Arrington until approximately one year had passed." (R. 247:6.) And, "[o]ne would think if the recorded conversation by Mr. Arrington was so important, the police would have listened right away no matter the circumstances. This lack of review goes to police intent." (*Id.*) Eighth, "the use of 'CI' does not indicate agency." (R. 247:6.) Finally, the police had "no affirmative duty to keep Mr. Miller away from Mr. Arrington when they knew Mr. Miller was assisting with another case." (*Id.*) It is "not the government's job to protect defendants from their own 'loose talk.'" (R. 247:7.) In sum, the postconviction court determined that Arrington's Sixth Amendment right to counsel was not violated because Miller was not an agent of the State. (*Id.*) Consequently, there was "no ineffective assistance of counsel based on my decision about the [S]ixth [A]mendment." (R. 247:9.)

The court of appeals' decision

The court of appeals reversed the circuit court.

Regarding Arrington's Sixth Amendment claim, the court of appeals determined that "the question here becomes whether Miller was acting as an agent of law enforcement and was acting under the direction or control of law enforcement when he recorded his conversations with Arrington." (Pet-App. 115.) The court discussed the following cases: *Massiah v. United States*, 377 U.S. 201 (1964); *United States v. Henry*, 447 U.S. 264 (1980); *Maine v. Moulton*, 474 U.S. 159 (1985); *Kuhlmann v. Wilson,* 477 U.S. 436 (1986), and *Lewis*, 324 Wis. 2d 536. (Pet-App. 111–15.) It concluded that Miller was acting as an agent of the State. (Pet-App. 115.) It determined

that the conduct of the detectives was "prohibited by" those cases because (1) there was a prior formal agreement between the officers and Miller, and (2) the officers exercised control by giving Miller a recording device. (Pet-App. 117–18.)

Regarding Arrington's ineffective-assistance-of-counsel claim, the court of appeals determined that defense counsel had no "strategic reason for failing to object," and that he "simply missed the issue." (Pet-App. 119.) The court determined defense counsel's representation "fell far below an objective standard of reasonableness," and was therefore deficient. (Pet-App. 120.) It also concluded that defense counsel's deficient performance prejudiced Arrington. According to the court, absent the CI's recordings and testimony, "there would have been sufficient questions regarding whether Arrington was acting in self-defense so as to raise a reasonable doubt about Arrington's guilt." (Pet-App. 122.)

ARGUMENT

This Court should accept review and reverse the court of appeals.

A. The court of appeals erroneously determined that counsel was ineffective for failing to raise a novel issue.

This case must be viewed through the lens of ineffective assistance of counsel. The State, therefore, discusses that primary issue before addressing Arrington's right-to-counsel claim on the merits.

Defense counsel's failure to move to suppress did not constitute ineffective assistance of counsel. Trial counsel can never be ineffective for declining to make an argument that controlling legal authority does not support. "[I]neffective assistance of counsel cases should be limited to situations where the law or duty is clear such that reasonable counsel

should know enough to raise the issue." *State v. Lemberger*, 2017 WI 39, ¶ 33, 374 Wis. 2d 617, 893 N.W.2d 232 (citation omitted). *See also State v. Hanson,* 2019 WI 63, ¶ 28, 387 Wis. 2d 233, 928 N.W.2d 607, *cert denied*, 140 S. Ct. 407 (2019) (providing: "In order to constitute deficient performance, the law must be settled in the area in which trial counsel was allegedly ineffective."). Thus, counsel's "failure to raise arguments that require the resolution of unsettled legal questions generally does not render a lawyer's services 'outside the wide range of professionally competent assistance' sufficient to satisfy the Sixth Amendment." *State v. Breitzman*, 2017 WI 100, ¶ 49, 378 Wis. 2d 431, 904 N.W.2d 93 (quoting *Lemberger,* 374 Wis. 2d 617, ¶ 33).

Here, for defense counsel to be deemed deficient, Arrington "would need to demonstrate that counsel failed to raise an issue of settled law." *Breitzman*, 378 Wis. 2d 431, ¶ 49. And as Arrington admitted in his court of appeals' brief, the court of appeals has addressed the issue "involving statements obtained by a jail informant" only once. (Arrington's COA Br. 2, Pet-App. 124.) It is a "novel" issue. (*Id.*) Indeed, the way that this case evolved *proves* that whether the conduct involved here constitutes a Sixth Amendment violation is unsettled: the circuit court, after conducting a *Machner* hearing and issuing multiple reasons, concluded there was no Sixth Amendment violation. But the court appeals reversed and concluded that there was.

Again, counsel is not ineffective for failing to raise an argument—even one that might have been successful—premised on a novel legal analysis or unsettled law. Here, defense counsel testified at the *Machner* hearing that he had practiced criminal law his entire career, since 2008. (R. 278:16.) And, when he represented Arrington, he was practicing criminal law "100 per cent." (R. 278:17.) His failure to move to suppress on Sixth Amendment grounds in this case

was not "outside the wide range of professionally competent assistance" sufficient to satisfy the Sixth Amendment because it was a novel issue. *See Breitzman*, 378 Wis. 2d 431, ¶ 49.

Arrington also failed to establish that the law was well-established in his favor. Given the court of appeals' decision in *Lewis,* counsel would have had no reason to believe that a Sixth Amendment challenge would have been successful. Indeed, in denying Arrington's ineffective assistance claim, the circuit court determined that there was no Sixth Amendment violation based on *Lewis*. (R. 247:9.) On this record, the court of appeals erred when it determined that counsel's performance was deficient.

The court also erred when it determined that any deficiency prejudiced Arrington. Confidence in the trial's outcome was not undermined by admitting Miller's testimony or recordings. *See Strickland v. Washington*, 466 U.S. 668, 694 (1984). Rather, the State presented overwhelming of Arrington's guilt through the testimony of numerous witnesses, including:

- Craig Taylor testified that Arrington previously robbed Shorty. On the day of the shooting, Taylor saw Arrington "circling the block" and that Arrington "just had that look in his eye like he wanted to kill something." Taylor also saw the bullets hit Gomez and Gomez fall into Shorty. At no point did Taylor see Shorty with a gun, and Shorty "never reached for nothing." Rather, he saw Arrington shoot immediately: "[a]s soon as [Arrington] sees him peek his head, [Arrington] started shooting into the doorway." (R. 271:45, 48–49, 55, 57, 60, 62, 63.)
- Lawrence Hawkins testified that when he left Taylor's house before the shooting, Arrington asked him if Shorty was inside. (R. 271:217–19.)

- James Allen testified that days before the shooting, Arrington told Allen that he robbed Shorty, that Shorty had stabbed him, and that Arrington said, "I'm going to fuck [Shorty] up." (R. 274:196, 198.)
- Christopher Howard testified that Arrington was "highly upset" when Shorty cut him, and that Arrington told Howard "he was going to have to handle his business." (R. 274:206.)
- Brianna Brown testified that days before the shooting, Arrington was walking around an apartment upset about being cut by Shorty and "toting a MAC [10]." (R. 273:58–63.)
- A.V.T. testified that when Gomez knocked on Taylor's door, Arrington "was waiting for that door to open." And after Shorty said to Arrington, "What's good?" Arrington "just started shooting a gun." When asked if she saw Shorty shooting back, she replied, "No," and that there was "no way they were shooting back at that car. There was no bullets at that car. There was no gun came out that house, no." (R. 271:147–49, 151–52.)
- Erica Herrod testified that on the night of the shooting, Arrington came to her house, told her he "popped" someone, and asked for bleach to wash up. (R. 271:225–26.)
- Eugene Herrod testified that he told police that on the night of the shooting, Arrington called and said he "fanned Shorty down." Eugene testified that he also told police that the next day, Arrington called and told him that he got the wrong person, and that he would "get that [explicative] Shorty and finish the job." (R. 271:260, 263.)
- Arrington's witness, Devin Landrum, testified that he never saw Shorty with a weapon, never saw any weapon in Shorty's waistband, and he

> never saw anyone else shooting other than Arrington. Rather, Arrington fired two or three shots, and then "[w]e pulled off and we drove away." (R. 275:54, 59–61.)

Finally, defense counsel impeached and attacked Miller's credibility. Specifically, defense counsel was able to get Miller to acknowledge that he had been convicted of a crime 18 times. (R. 275:29.)

The court of appeals, however, failed to recognize this overwhelming evidence against Arrington, as well as defense counsel's attack on Miller's credibility. (Pet-App. 121–22.) It also ignored Arrington's incredible testimony that the witnesses who testified against him—including Erica, Eugene, A.T.V., Allen, and Howard—were lying and just "making stuff up." (R. 275:129.)

And contrary to the court of appeals' conclusion (Pet-App. 122), there was no reasonable probability that the jury would have accepted Arrington's self-defense theory had his statements to Miller been excluded. Arrington's defense (that Shorty shot Gomez) simply made no sense, and no other witnesses corroborated Arrington's story. No one (except Arrington) who was present at the shooting saw Shorty with a gun, and multiple witnesses testified that Arrington held a grudge against Shorty and was planning to get even with him.

There was no prejudice here.

B. The court of appeals erroneously reversed the circuit court's decision that Arrington failed to show a violation of right to counsel.

The court of appeals also erroneously reversed the circuit court's conclusion that the State did not violate Arrington's Sixth Amendment right to counsel. (Pet-App. 118.)

In *Lewis*, the court of appeals recognized that "[l]aw enforcement is prohibited from using a surreptitious government agent (e.g., a fellow jail cellmate) to deliberately elicit incriminatory statements, by investigatory techniques that are the equivalent of direct police interrogation, in the absence of counsel or a valid waiver of counsel." *Lewis,* 324 Wis. 2d 536, ¶ 1. "We hold that this requires evidence of some prior formal agreement—which may or may not be evidenced by a promise of consideration—plus evidence of control or instructions by law enforcement." *Id*.

Here, the court of appeals determined that there was a prior formal agreement and that the detectives exhibited control over Miller. (Pet-App. 116–18.) But Miller made the recordings with Arrington in the *hopes* of getting consideration, and Miller was not told of any contemplated consideration until well *after* the recordings were made. There was therefore no "prior formal agreement." *Lewis*, 324 Wis. 2d 536, ¶ 1. As the postconviction court provided, "Miller was cooperating with the government because of a hope that he would receive a reduced sentence, and the government was under no obligation to turn him away when he asked to help." (R. 247:7.) He was "the classic entrepreneur, seeking to market his information without any advance arrangement." *See State v. Marshall,* 882 N.W.2d 68, 101 (Iowa 2016).

There was also no police control or instructions that constitutes a Sixth Amendment violation. At the postconviction hearing, Detective Wanta testified he did not give any direction to Miller as to what type of questions to ask. (R. 278:43.) Arrington offered no evidence that the police "involved[d] themselves in the questioning," which *Lewis* requires. 324 Wis. 2d 536, ¶ 25 ("As long as the police do nothing to direct or control or involve themselves in the questioning of a person in custody by a private citizen, such questioning does not violate the [F]ifth or [S]ixth

Amendments." (citation omitted)). Rather, Wanta testified that "Mr. Miller approached us or myself about speaking with Mr. Arrington and we said it was okay or we said he could record conversations." (R. 278:46.)

But the court of appeals focused on the existence of the recording device to determine that there was "control." (Pet-App. 116–18.) Yet it is undisputed that *Miller* had the ability to turn off the recorder at his will and, as the circuit court found, Miller "was under no obligation" to use the recording device. (R. 278:9–10; 247:6.)

Here, Arrington fell prey to the self-interest of Miller, not State interference with his right to counsel. As the postconviction court determined, "Miller was acting on his own initiative and approached the police to help in Arrington's case." (R. 247:7.) In *Lewis*, the court of appeals "refuse[d] to extend the rule of *Massiah* and *Henry* to situations where an individual, acting on his [or her] own initiative, deliberately elicits incriminating information." 324 Wis. 2d 536, ¶ 23 (citation omitted). But the court of appeals did so in this case. Its decision must be reversed.

CONCLUSION

For the reasons discussed, the State respectfully requests that this Court grant its petition for review of the court of appeals' opinion.

Dated this 4th day of May 2021.

Respectfully submitted,

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CERTIFICATION

I hereby certify that this petition conforms to the rules contained in Wis. Stat. § 809.62(4) for a petition for review produced with a proportional serif font. The length of this petition is 4,261 words.

Dated this 4th day of May 2021.

_____

SARA LYNN SHAEFFER
Assistant Attorney General

CERTIFICATE OF COMPLIANCE
WITH WIS. STAT. § (RULE) 809.62(4)(b)

I hereby certify that:

I have submitted an electronic copy of this petition for review, excluding the appendix, if any, which complies with the requirements of Wis. Stat. §§ (Rules) 809.62(4)(b) and 809.19(12).

I further certify that:

This electronic petition for review is identical in content and format to the printed form of the petition for review filed as of this date.

A copy of this certificate has been served with the paper copies of this petition for review filed with the court and served on all opposing parties.

Dated this 4th day of May 2021.

_____
SARA LYNN SHAEFFER
Assistant Attorney General

Appendix
State of Wisconsin v. Richard Michael Arrington
Case No. 2019AP2065-CR

APPENDIX CERTIFICATION

I hereby certify that filed with this petition for review, either as a separate document or as a part of this petition, is an appendix that complies with Wis. Stat. § 809.62(2)(f) and that contains, at a minimum: (1) a table of contents; (2) the decision and opinion of the court of appeals; (3) the findings or opinion of the circuit court necessary for an understanding of the petition; and (4) portions of the record necessary for an understanding of the petition.

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 notation that the portions of the record have been so reproduced to preserve confidentiality and with appropriate references to the record.

Dated this 4th day of May 2021.

_____

SARA LYNN SHAEFFER
Assistant Attorney General

CERTIFICATE OF COMPLIANCE
WITH WIS. STAT. § (RULE) 809.62(4)(b)

I hereby certify that:

I have submitted an electronic copy of this appendix, which complies with the requirements of Wis. Stat. §§ (Rules) 809.62(4)(b) and 809.19(13).

I further certify that:

This electronic appendix is identical in content to the printed form of the appendix filed as of this date.

A copy of this certificate has been served with the paper copies of this appendix filed with the court and served on all opposing parties.

Dated this 4th day of May 2021.

_____
SARA LYNN SHAEFFER
Assistant Attorney General