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STATE OF WISCONSIN
COURT OF APPEALS
DISTRICT I

Case No. 2020AP001921-CR

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

KEANDRAE J. REED,

Defendant-Appellant.

Appeal From the Circuit Court for Milwaukee County
Honorable T. Christopher Dee Presiding,
Circuit Court Case No. 12CM004688

OPENING BRIEF OF APPELLANT
KEANDRAE J. REED

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STATEMENT OF THE ISSUES PRESENTED

The issues presented on this appeal arise out of the circuit court's denial of Defendant-Appellant Keandrae J. Reed's petition for expungement.

The specific issues presented on this appeal are:

Issue 1: Whether the circuit court erred in finding that conversion of restitution and costs to civil judgments did not satisfy the conditions of probation given that the Judgment of Conviction contains the disjunctive "or" and adjudges payment "or" entry of a civil judgment against Mr. Reed; and

Issue 2: Whether requiring an indigent defendant to pay amounts he cannot afford to comply with conditions of probation and earn entitlement to expungement is unconstitutional under equal protection principles.

TRIAL COURT DECISION: The circuit court held that the conditions of probation required payment of restitution, and denied expungement of Mr. Reed's record.

STATEMENT REGARDING ORAL ARGUMENT AND PUBLICATION

The Defendant-Appellant Reed believes that the following arguments are consistent with relevant legal authority, the arguments are sound, and in line with the present state of the law. For the foregoing reasons, oral argument may be helpful, but Defendant-Appellant Reed does not specifically request it for this case.

This case does not qualify for publication because it is a misdemeanor appeal. *See* Wis. Stat. §§ 809.23(1)(b) 4 and 751.31(2)(f).

STATEMENT OF THE CASE AND FACTS

This is an appeal from an order of the circuit court denying Mr. Reed's petition for expungement.

Procedural Status Leading up to the Appeal

On February 11, 2013, Mr. Reed pleaded guilty to one count of misdemeanor Theft-Movable Property committed shortly after turning 18 years of age, in violation of Wisconsin Statute § 943.20(1)(a). (A-App. 34-35, 47.) On March 21, 2013, the Honorable Daniel Konkol stayed Mr. Reed's sentence and placed him on probation for one year. (A-App. 46.) At Mr. Reed's sentencing hearing, the court ordered the following conditions of probation: (1) No violations of the criminal law rising to the level of probable cause; (2) Pay restitution of \$2,099.99 to Radio Shack or a civil judgment is to be entered; (3) Pay the appropriate court costs, assessments, and surcharges; (4) Perform ten hours of community service. (A-App. 31; A-App. 25, Dkt. 13, March 21, 2013 Sentencing Transcript at 9:15-21 and 10:19-22.) Additionally, the court found that Mr. Reed "should be making payments on those amounts that I've ordered at the rate of \$200 per month starting May 1st, [2013]" and that "[a]ny monetary amount that remains unpaid when probation is terminated is ordered reduced to a judgment against [Mr. Reed] for the unpaid balance." (A-

App. 26 at 10:13-15.) Finally, the court ordered expungement upon successful completion of the period probation and satisfaction of the conditions of probation.¹ (A-App. 27 at 11:14-21.)

In addition to the oral sentencing, the circuit court entered a Judgement of Conviction on March 27, 2013. (A-App. 45.) In the Judgement of Conviction, the conditions of Mr. Reed's probation are: (1) Ten hours of community service; (2) "Pay restitution of \$2,099.99 to Radio Shack or a civil judgment is to be entered against defendant. Make payments on the monetary amounts at the rate of \$200 per month commencing 5-1-13"; (3) "Pay costs, assessments and surcharges or a civil judgment is to be entered against the defendant. Make payments on the monetary amounts at the rate of \$200.00 per month commencing 5-1-13"; and (4) No criminal violations of the law. (A-App. 31, Dkt. 14, Judgment of Conviction.)

Around the same time, Mr. Reed was helping his mother support his minor siblings and was expecting his own child. (A-App. 35, Dkt. 15, Reed Affidavit, at ¶ 7.) On June 14, 2013, the Milwaukee County Circuit Court entered civil judgments for the unpaid

¹ During the sentencing hearing, the circuit court purported to place a time limit on Mr. Reed's ability to seek expungement, stating that he had to do so within two years of sentencing. (A-App. 27.) However, as discussed below, the expungement statute contains no deadline.

restitution, court obligations, and supervision fees. (A-App. 38-42.) Mr. Reed completed his sentence and was terminated from probation on March 27, 2014. (*See* A-App. 44, Dkt. 17, CCAP Printout.) Following this, Mr. Reed has had no further criminal law violations. (A-App. 35, Dkt. 15 at ¶ 10.)

Nonetheless, Mr. Reed has had repeated problems finding employment due to his court record, which is why he seeks expungement. (A-App. 36 at ¶ 12.) In particular, he has been told by two local businesses that he was denied employment due to his criminal record and suspects that other businesses have refused to consider him for employment due to the same reason. (*Id.*) He has been unable to find meaningful employment other than sporadic landscaping jobs. (*Id.*)

Disposition in the Trial Court

In view of these prolonged difficulties, Mr. Reed sought to complete the expungement order entered at his sentencing hearing. On June 26, 2020, Mr. Reed petitioned the circuit court to expunge his record. (A-App. 1-50, Dkts. 11-17.) The State opposed the petition. (A-App. 51, Dkt. 26.) The circuit court denied Mr. Reed's petition due to Mr. Reed's failure to pay restitution. (A-App. 67, Dkt. 30.) This appeal follows.

ARGUMENT

I. Introduction

On March 27, 2013, the Milwaukee County Circuit Court sentenced Mr. Reed for misdemeanor theft, an offense he committed when he was only 18 years old. (A-App. 35, Dkt. 15 at ¶¶ 5-6.) At the time, Mr. Reed was living in poverty, was expecting his first child, and was helping support his four younger siblings. (*Id.* at ¶ 7.) Nonetheless, Mr. Reed completed probation without any further legal troubles. (*Id.* at ¶ 10.) Now, 26 years old, Mr. Reed has a family of his own, is an active member of his community, and has had no further criminal infractions. By all accounts, he is a model citizen.

Despite these achievements, Mr. Reed continues to face a significant obstacle to gaining further stability – his prior conviction as an 18-year-old. Since his conviction, Mr. Reed has been denied employment on several occasions because of his court record. (A-App. 36, Dkt. 15 at ¶ 12.) Mr. Reed is the kind of person who would benefit from expungement.

In fact, this case exemplifies the rationale behind the expungement statute. The expungement statute was enacted in 1975 as part of the Youthful Offenders Act, the purpose of which “was to shield qualified youthful offenders from some of the harsh

consequences of criminal convictions.” *State v. Anderson*, 160 Wis. 2d 435, 440, 466 N.W.2d 681 (Ct. App. 1991); *see also State v. Leitner*, 2002 WI 77, 138, 253 Wis. 2d 449, 646 N.W.2d 341. For many young offenders, expungement is critical to this goal. Court records in Wisconsin are easily accessible by the general public through the Wisconsin Court System Circuit Court Access, commonly referred to as CCAP. Although public access to court records serves the admirable purpose of promoting transparency in the judicial system, it also has unfortunate consequences for those who come into contact with the criminal justice system.

For example, public accessibility of court records often proves harmful to the employment prospects and, by extension, financial and social stability. Prospective employers, like other members of the public, have easy access to CCAP. Studies have shown that employers are less likely to consider job applicants who have any had any kind of contact with the criminal justice system. Devah Pager, *Double Jeopardy: Race, Crime, and Getting A Job*, 2005 Wis. L. Rev. 617, 625 (2005). Indeed, for African-American job applicants like Mr. Reed, those with a criminal record are nearly three times less likely to receive a callback for a potential job than those with no criminal record. *Id.* at 642.

This trend is troubling. For those like Mr. Reed, this effectively means that, no matter how much effort they put into being a productive member of society, their ability to support themselves and their families will always be limited. It also means that the victims of past crimes are less likely to be made whole via restitution as those who wronged them are unable to earn enough to pay their debts. And that is to say nothing of the risk of harm to the general public. Research into recidivism “consistently shows that finding quality steady employment is one of the strongest predictors of desistance from crime.” *Id.* at 647. The fact that the mere existence of a criminal record, regardless of severity, frequently prevents people like Mr. Reed from gaining employment does nothing more than ensure that some of these people will return to unscrupulous means to stay afloat. This cannot be the favored outcome.

As such, expungement is the logical solution for those who demonstrate that they are willing to do everything possible to right their wrongs and fulfill their obligations to society.

II. The Decision Below Is Subject to *De Novo* Review.

The circuit court’s decision is subject to *de novo* review because it involves interpreting and applying the expungement statute,

Wis. Stat. § 973.015(1m), to a set of undisputed facts. *State v. Ozuna*, 2017 WI 64, ¶9, 376 Wis. 2d 1, 898 N.W.2d 20.

Wisconsin Statute § 973.015(1m)(a)(1) provides that

when a person is under the age of 25 at the time of the commission of an offense for which the person has been found guilty in a court for violation of a law for which the maximum period of imprisonment is 6 years or less, the court may order at the time of sentencing that the record be expunged upon successful completion of the sentence if the court determines the person will benefit and society will not be harmed by this disposition.

The statute further states that “[a] person has successfully completed the sentence if the person has not been convicted of a subsequent offense and, if on probation, the probation has not been revoked and the probationer has satisfied the conditions of probation.” Wis. Stat. § 973.015(1m)(b). If these conditions are met, the person is entitled to expungement. *State v. Hemp*, 2014 WI 129, ¶16, 359 Wis. 2d 320, 856 N.W.2d 811.

For purposes of the expungement statute, a person successfully completes a sentence if: (1) the person has not been convicted of a subsequent criminal offense; (2) probation has not been revoked; and (3) the probationer has satisfied the conditions of probation. *Id.* If these conditions are met, the person is entitled to expungement. *Hemp*,

2014 WI 129, ¶16 (“We first consider whether Hemp’s successful completion of probation automatically entitled him to expungement. We conclude that it did. Upon successfully completing probation, Hemp’s expungement could not be revoked . . .”). The circuit court has no discretion in the matter. *State v. Ozuna*, 2016 WI App 41, 369 Wis. 2d 224, 880 N.W.2d 183 (“*Ozuna I*”) (“If ordered, expungement is automatic after the sentence has been successfully completed; the circuit court has no discretion in the matter.”).

This Court reviews “questions of constitutional fact independently to determine whether any constitutional principles have been offended.” *State v. Harris*, 2003 WI App 144, ¶ 9, 266 Wis. 2d 200, 207, 667 N.W.2d 813, 817, *aff’d*, 2004 WI 64, ¶ 9, 272 Wis. 2d 80, 680 N.W.2d 737; *see also State v. Byrge*, 2000 WI 101, ¶ 34, 237 Wis. 2d 197, 218, 614 N.W.2d 477, 487 (reviewing courts “independently analyze[] the application of constitutional principles to the facts.”)

III. The Circuit Court Erred in Finding That Conversion of Restitution to Civil Judgments Did Not Satisfy the Conditions of Probation.

The circuit court’s sole reason for denying expungement was Mr. Reed’s failure to pay restitution and costs. (A-App. 69, Dkt. 30 at 3; A-App. 70, Dkt. 47.) The circuit court erred in this regard by

finding that conversion of the restitution to civil judgments did not satisfy the conditions of probation. This Court should reverse.

A. Mr. Reed satisfied the conditions of probation.

By the plain language of the judgment of conviction, conversion of Mr. Reed's restitution and costs to civil judgments met the conditions of probation. Despite the State's arguments to the contrary, the circuit court did not order Mr. Reed to pay his restitution and costs in full as a condition of his probation. (A-App. 25-27, Dkt. 13, Sentencing Transcript at 9-11.) Rather, the conditions of probation as enunciated by Judge Konkol² state that Mr. Reed was required to pay restitution and costs "*or* a civil judgment [was] to be entered against" him. (A-App. 30, Dkt. 14 (emphasis added); *see also* A-App. 26, Dkt. 13, Sentencing Transcript at 10 (acknowledging that, if Mr. Reed did not completely pay restitution and costs, "[a]ny monetary amount that remains unpaid when probation is terminated is ordered to be reduced to a judgment against [Mr. Reed] for the unpaid balance."))

² Judge Konkol has since retired from the bench. Mr. Reed's petition for expungement was assigned to the Honorable T. Christopher Dee as successor to Judge Konkol's former general felony calendar. (A-App. 67, Dkt. 30 at 1 n.1.)

There is substantial authority for the proposition that the disjunctive “or” included in the conditions of probation establishes that Mr. Reed could satisfy the conditions of probation *either* by paying restitution and costs in full during his probationary period *or* by having the debts converted to civil judgments against him. *See Beaver Dam Cmty. Hosps., Inc. v. City of Beaver Dam*, 2012 WI App 102, ¶ 10, 344 Wis. 2d 278, 285, 822 N.W.2d 491, 494-95 (“The ordinary meaning of ‘or’ is disjunctive, meaning that a category that is included in a list of categories linked by the term ‘or’ is one alternative choice.”); *State v. Harvey*, 2006 WI App 26, ¶48, 289 Wis. 2d 222, 710 N.W.2d 482 (“[S]ince the rule is stated in the disjunctive, all factors need not be satisfied.”). These cases finding the word “or” to be disjunctive are consistent with the plain and ordinary meaning of the word “or.”

The idea that conversion to civil judgment would satisfy the conditions of probation finds further support in Wisconsin case law. For example, in a *per curiam* decision, the Court of Appeals of Wisconsin, District Two, suggested that an “alternative action like extending probation *or obtaining a civil judgment*,” rather than simply allowing supervision fees to go unpaid, would have satisfied a petitioner’s conditions of probation. *State v. Colbert*, 2017 WI App

85, ¶10, 379 Wis. 2d 366, 906 N.W.2d 183 (emphasis added). Although the court in *Colbert* ultimately denied the petition for expungement on the basis that the Department of Corrections had no obligation to convert unpaid fees to a civil judgment (which it did not), the conclusion taken from the court's reasoning is that the petitioner *would have* been entitled to expungement if the Department of Corrections had done so. This reasoning applies with equal force in this case. (A-App. 68, Dkt. 30 at 2.)

Furthermore, other conditions of probation contain disjunctives that would almost certainly be viewed as requiring only one of the two options to satisfy the condition of probation. *See, e.g., State v. Olson*, 2019 WI App 58, 389 Wis. 2d 104, 936 N.W.2d 405 (probationer discharged from probation after only five months where “probation was extended for an additional six months ‘or until all court obligations [were] completed’”). The same reasoning should apply when the condition of probation is that the defendant “[p]ay [restitution,] costs, assessments and surcharges or a civil judgment is to be entered against the defendant.” (*See* A-App. 30, Dkt. 14.)

The Court should reverse the circuit court's rejection of Mr. Reed's petition because the word “or” in the Judgment of Conviction

is a disjunctive that was satisfied when the restitution and costs were converted to civil judgments.

B. The transcript of the sentencing hearing supports a finding that Mr. Reed satisfied his conditions of probation.

The actual language used by the circuit court during the sentencing hearing supports the conclusion that conversion of some or all of the monetary obligations to civil judgments would satisfy the conditions of probation. The payment plan Judge Konkol ordered was insufficient to fully satisfy the restitution obligation, meaning Mr. Reed would not have paid the rest before his probation period ended.

During the sentencing hearing, Judge Konkol stated that the conditions of probation included that Mr. Reed “pay restitution of \$2,099.99 to Radio Shack” and “that [Mr. Reed] pay the appropriate court costs, assessments and surcharges that come along with the action.” (A-App. 25, Dkt. 13, Sentencing Transcript at 9.) This resulted in monetary obligations totaling approximately \$2,700. (A-App. 45.) He recommended that Mr. Reed pay \$200 per month towards this amount beginning on May 1, 2013 and that “[a]ny monetary amount that remains unpaid when probation is terminated is ordered reduced to a judgment against [Mr. Reed] for the unpaid

balance.” (A-App. 26 at 10:13-15.).³ Mr. Reed’s probationary period, however, was scheduled to terminate on March 27, 2014. (A-App. 44, Dkt. 17.) Accordingly, even if Mr. Reed had been able to pay Judge Konkol’s recommended amount of \$200 per month from May 1, 2013 to March 27, 2014, the total would have been \$2,200 at most, not the entire \$2,700 that he owed in restitution and court costs. The balance would have been converted to civil judgments, as Judge Konkol stated. Therefore, even under Judge Konkol’s contemplated payment plan, a civil judgement would have been entered against Mr. Reed for the unpaid portion of the restitution and costs.

Although the State argued and the circuit court agreed that the hearing transcript’s sentencing pronouncement takes precedence over the judgment of conviction where there is a conflict between the oral

³ This recommendation was premised on Mr. Reed’s belief at the time that he would soon have employment that would provide a steady income. (A-App. 25-26, Dkt. 13, Sentencing Transcript at 9-10.) Unfortunately, that job never materialized, and Mr. Reed was left financial unable to pay even the \$200 per month Judge Konkol recommended. The circuit court was aware of Mr. Reed’s inability to pay absent employment, as evidenced by its finding of indigence for Mr. Reed and its appointment of a Public Defender at his Initial Appearance. (*See* A-App. 47, Dkt. 17 (“Defendant IS Public Defender eligible. Defendant is ordered to provide the Public Defender’s office with the next court date.”).) The Judge Konkol would have properly considered Mr. Reed’s indigence when imposing the payment-related conditions of probation.

pronouncement and subsequent written judgment,⁴ no such conflict exists here. Compliance with Judge Konkol's payment plan would have resulted in at least some portion of his monetary obligations having to be converted to a civil judgment at the conclusion of his probationary period. (A-App. 26, Dkt. 13, Sentencing Transcript at 10.) Judge Konkol also ordered Mr. Reed's conviction expunged if he complied with the conditions of probation, which included payment of restitution and fees. (A-App. 27, Dkt. 13, Sentencing Transcript at 11.) It seems illogical that Judge Konkol would have imposed a condition of probation for a defendant that could not possibly be met if the defendant complied with the recommended payment plan. Thus, there is no conflict between the transcript and the Judgment of Conviction, which explicitly contains the disjunctive requirements that Mr. Reed pay his monetary obligations "*or* a civil judgment is to be entered against defendant." (A-App. 31, Dkt. 14 (emphasis added).)

At best, Judge Konkol's intentions are ambiguous. Under these circumstances, it was error for the circuit court to disregard the

⁴ See *State v. Perry*, 136 Wis. 2d 92, 114 (1987) (Where a conflict exists between a court's oral pronouncement of sentence and a written judgment, the oral pronouncement controls.).

disjunctive “or” in the Judgment of Conviction. It is well-established in Wisconsin that, “[w]hen there is an ambiguity in the oral sentencing, as opposed to a conflict between the oral pronouncement and the written judgment, it is proper to look to the written judgment to ascertain the court’s intention.” *State v. Brown*, 150 Wis. 2d 636, 641, 443 N.W.2d 19, 22 (Ct. App. 1989) (quoting *United States v. Purcell*, 715 F.2d 561, 563 (11th Cir. 1983)). Here, for the reasons explained above, the written Judgment of Conviction and its use of the disjunctive “or” when discussing payment of monetary obligations or conversion to civil judgment makes clear that conversion of Mr. Reed’s restitution obligation to civil judgments does satisfy the conditions of probation. Thus, this Court should reverse the circuit court’s denial of Mr. Reed’s petition.

IV. Interpreting the Conditions of Probation to Use the Disjunctive “or” Avoids an Unconstitutional Interpretation.

Requiring that an indigent defendant pay restitution under Wis. Stat. § 973.015 means that individuals who are unable to pay court-ordered costs will be unable to receive the benefits of expungement

regardless of their efforts or ability to pay. This interpretation presents an equal protection violation.⁵

“The equal protection clause ’is designed to assure that those who are similarly situated will be treated similarly.” *State v. Smith*, 2010 WI 16, 115, 323 Wis. 2d. 377, 780 N.W.2d 90 (quoting *Treiber v. Knoll*, 135 Wis.2d 58, 68, 398 N.W.2d 756 (1987)). To demonstrate an equal protection violation “a party must demonstrate that the statute treats members of similarly situated classes differently.” *Blake v. Jossart*, 2016 WI 57, 130, 370 Wis. 2d 1, 884 N.W.2d 484. Under the applicable rational basis test, “a statute is unconstitutional if the legislature applied an irrational or arbitrary classification when enacting the provision.” *See id.* at 132.

Here, an interpretation requiring satisfaction of restitution results in an equal protection violation. First, the circuit court’s interpretation of the conditions of probation divides similarly situated individuals – those initially deemed eligible for expungement by circuit courts – into two groups: (1) individuals who have the means to pay all costs and fees during the supervision period, and (2)

⁵ The United States Constitution and the Wisconsin Constitution provide the guarantee of equal protection. U.S. Const. Amend. § XIV; Wis. Const. art. 1, § 1.

individuals, who attempt to pay, but cannot afford to do so during the supervision period.

Because there is no rational basis for granting expungement based on an individual probationer's wealth, an interpretation of the conditions of probation requiring perfect compliance with restitution conditions results in an equal protection violation. While the State has an interest in encouraging probationers to pay their court fees and costs, preventing expungement from occurring based on a probationer's inability to pay does not further this purpose. Put differently, no amount of consequences will result in full payment for a probationer who lacks the ability to pay all costs during the supervision period. Indeed, “conditioning probation on the satisfaction of requirements which are beyond the probationer's control undermines the probationer's sense of responsibility.” *State v. Jackson*, 128 Wis. 2d 356, 363, 382 N.W.2d 429, 432 (1986) (quoting *Huggett v. State*, 83 Wis. 2d 790, 799, 266 N.W.2d 403, 407 (1978)).⁶

⁶ To eliminate the possibility of expungement without any determination of an individual probationer's ability to pay runs counter to the Wisconsin Supreme Court's pronouncements on ability to pay findings in the context of restitution and probation extension. *See State v. Jackson*, 128 Wis.2d 356, 363-68, 382 N.W.2d 429 (1986).

Allowing expungement despite inability to pay restitution would not create a disincentive for probationers to satisfy their payment obligations for several reasons. First, a probationer's refusal to make any attempt to satisfy monetary conditions of probation may result in revocation. *See State v. Gerard*, 57 Wis.2d 611, 621-23, 205 N.W.2d 374 (1973). Second, probation may be extended for failure to make "a good faith effort to discharge court-ordered payment obligations" or supervision fees. Wis. Stat. § 973.009(3)(a) & (3)(c)(1). Finally, when a probationer is discharged from probation with unpaid restitution, surcharges, or supervision fees those fees are not forgiven, instead, the court "shall" issue a civil judgment for the unpaid amounts. Wis. Stat. § 973.09(b)-(bm). A civil judgment has ongoing financial consequences until satisfied.

In essence, requiring perfect compliance with restitution results in a penalty based on poverty, which is not rationally-related to the State's interest that probationers pay court-ordered costs and other fees.

By interpreting the conditions of probation to allow a probationer to satisfy the conditions of probation *either* by paying restitution *or* by having the debts converted to civil judgments, this Court can avoid this untenable and potentially unconstitutional result.

“Given a choice of reasonable interpretations of a statute, this [C]ourt must select the construction which results in constitutionality.” *State ex rel. Strykowski v. Wilkie*, 81 Wis. 2d 491, 526, 261 N.W.2d 434 (1978).

This interpretation is also consistent with the Wisconsin Supreme Court’s decision in *Hemp*. Although the court stated that “Hemp satisfied all the conditions of probation and paid all his supervision fees,” *Hemp* did not hold that payment of all supervision fees is required for expungement. *See Hemp*, 359 Wis. 2d 320. The record in *Hemp* indicates that Hemp did not pay all supervision fees prior to discharge, but that payment was completed at some point after successful completion of probation. (*Hemp*, Appx. 119-122.) Hemp’s final certificate of discharge stated “[t]his discharge does not forgive your current (tentative) balance of unpaid supervision fees, in the amount of [\$]40.00 . . . This balance is (tentative) as a result of delayed supervision fee charges still to be posted.” (*Id.* at 121.) Although Hemp apparently paid all supervision fees after his probationary period ended, at the time he was discharged from probation and became entitled to expungement, he owed at least \$40.00 in supervision fees. *Id.* Thus, *Hemp* further demonstrates that payment of all costs and fees is not required for expungement.

Accordingly, this Court should interpret the “or” in the conditions of probation in the disjunctive to avoid any equal protection violation.

CONCLUSION

There has been “a consistent legislative effort to expand the availability of expungement to include a broader category of youthful offenders.” *State v. Hemp*, 2014 WI 129, ¶ 20. Mr. Reed met his conditions of probation and is entitled to expungement. Furthermore, expungement should not be conditioned on payment a defendant cannot afford due to poverty. The courts have a long history of protecting the rights of indigents and “the passage of time has heightened rather than weakened the attempts to mitigate the disparate treatment of indigents in the criminal process.” *See Williams v. Illinois*, 399 U.S. 235, 241 (1970). Therefore, Mr. Reed respectfully requests that the Court reverse the decision of the circuit court and remand to the circuit court with instructions to find that Mr. Reed satisfied his conditions of probation and enter an order completing the expungement of this conviction.

Dated this 24th day of February, 2021.

Respectfully submitted,

Electronically signed by Kelsey C. Boehm

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FORM AND LENGTH CERTIFICATION

I hereby certify that this brief conforms to the rules contained in § 809.19(8)(b) and (c) for a brief and appendix produced with a proportional serif font. The length of this brief is 4,406 words.

Dated: February 24, 2021

Electronically signed by Kelsey C. Boehm

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I certify that this brief or appendix was deposited in the United States mail for delivery to the Clerk of Court of Appeals by first-class mail, or other class of mail that is at least as expeditious, on February 24, 2021. I further certify that the brief or appendix was correctly addressed and postage was prepaid.

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