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**SUPREME COURT**

STATE OF WISCONSIN

IN SUPREME COURT

Case No. 2021AP809-CR

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STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

JUNIOR L. WILLIAMS-HOLMES,

Defendant-Appellant-Petitioner.

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On Review of a Decision from the Court of Appeals,  
District II, Affirming a Judgment of Conviction and  
Order Denying Postconviction Relief in the Kenosha  
County Circuit Court, the Honorable Bruce  
Schroeder, Presiding.

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BRIEF OF  
DEFENDANT-APPELLANT-PETITIONER

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### **ISSUE PRESENTED**

1. The circuit court ordered that Junior L. Williams-Holmes obtain permission from the court before living with women or children not related to him by blood as a condition of his probation and extended supervision. Did the circuit court have statutory authority to require Mr. Williams-Holmes to return to court for permission, instead of his agent, where the statutes grant the Department of Corrections exclusive authority to administer probation and extended supervision?

The circuit court imposed the condition and denied Mr. Williams-Holmes' postconviction motion to amend the condition to require permission from his DOC agent.

The court of appeals affirmed, but modified the circuit court's condition, holding that "permission" had to be obtained through the statutory processes for modifying terms of probation or extended supervision, rather than through informal communication between the court and agent.

### **STATEMENT OF FACTS**

On September 23, 2019, Junior Williams-Holmes pled guilty to two counts of battery as a repeater, one count of false imprisonment as a repeater, and one count of misdemeanor bail jumping as a repeater. (31.) The complaint alleged that Mr.

Williams-Holmes committed acts of domestic abuse against his girlfriend over two days in June 2019. (1.)

On November 25, 2019, the court, the Honorable Bruce Schroeder, sentenced Mr. Williams-Holmes to two years in confinement, followed by two years of extended supervision on two of the counts. (36:15-16.) The court withheld sentence on the other two counts, and placed Mr. Williams-Holmes on three years of consecutive probation. (36:16.)

When ordering conditions of extended supervision and probation, the court said: “Given the history of domestic violence, you’re not to reside with any member of the opposite sex without the permission of the Court, nor reside with any child who is not related to you by blood without the permission of the Court.” (36:16; App. 27.) That condition is reflected on the judgments of conviction that were entered. (31:2, 4; App. 23, 25.)

Mr. Williams-Holmes filed a postconviction motion, arguing that the condition must be modified to require him to get permission from his supervising agent, not the court, before living with women or children not related to him.<sup>1</sup> (58.) The motion argued that Wis. Stat. § 301.03(3) grants the Department of Corrections (DOC), not the court, the authority to administer probation. Therefore, the circuit court

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<sup>1</sup> The circuit court’s condition specifies that it exempts children unrelated to him *by blood*. For simplicity, this brief generally refers to the condition as requiring permission to live with women or unrelated children, omitting reference to the biological connection.

lacked statutory authority to administer the condition and determine which particular women or children Mr. Williams-Holmes could live with.

The circuit court denied the motion, reasoning that because it was permitted to impose conditions of supervision, it was also permitted to monitor and administer those conditions. (62; 64; App. 18.) The court further explained that it did not believe the DOC could be trusted to administer the condition because agents were too lax when applying the condition. (64:3-4; App. 6-7.) The court included an email exchange between the judge and a DOC agent in an unrelated case, where the DOC agent asked the judge to allow a defendant to live with particular women and children. (64:3-4; App. 20-21.) The judge indicated that he had researched that defendant's court records from a different county, and concluded he would be unwilling to let the defendant live in the proposed home without more information. (64:3-4; App. 20-21.) The judge relied on his experience in that case to justify the condition in this case. (64:4; App. 21.)

The court of appeals affirmed, but clarified that "permission" to live with women or children could not take the informal form of emails between the agent and judge. *State v. Williams-Holmes*, 2022 WI App 38, ¶17, 404 Wis. 2d 88, 978 N.W.2d 523; (App. 11-12). The court held that this would amount to the court impermissibly "managing, directing, and superintending this supervision condition on a situation-by-situation basis. This is the department's role." *Id.* (internal citation omitted). Instead, the court of appeals held that to grant "permission" to live with



particular women or children, Mr. Williams-Holmes would have to engage the statutory processes for modifying conditions of probation or extended supervision under Wis. Stat. §§ 973.09(3)(a) and 302.113(7m)(a). *Id.*, ¶18; (App. 12-13). Thus, Mr. Williams-Holmes would be barred from living with any women or unrelated children until he returned to court to seek an amended judgment of conviction to identify particular women or children to live with. *See id.*

Mr. Williams-Holmes moved for reconsideration, arguing that even if the statutory processes for modifying supervision were followed, the circuit court was still impermissibly “administering” supervision by managing the specific women and children that he could live with. The motion also noted the impracticality of engaging the modification process—which involves a series of due process protections—anytime Mr. Williams-Holmes sought to live with someone new. The court of appeals denied reconsideration.

## ARGUMENT

**I. The condition of supervision must be amended to require permission from the Department of Corrections, not the court, before Mr. Williams-Holmes may live with women or children not related to him by blood.**

The statutes vest the DOC with the exclusive authority to administer rules of probation and extended supervision. Wis. Stat. § 301.03(3). The circuit court has attempted to circumvent this statutory directive, and empower itself to decide which particular women or unrelated children Mr. Williams-Holmes can reside with during his term of supervision. This court should reverse and remand with instructions that the condition be amended to require the DOC agent, not the court, to decide which women or unrelated children Mr. Williams-Holmes may reside with.

**A. The statutes grant the DOC exclusive authority to administer probation and extended supervision.**

The circuit court has broad discretion in setting conditions of both extended supervision and probation. *State v. Miller*, 2005 WI App 114, ¶ 11, 283 Wis. 2d 465, 701 N.W.2d 47; Wis. Stat. § 973.01(5)<sup>2</sup> (concerning extended supervision conditions); *State v.*

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<sup>2</sup> “Whenever the court imposes a bifurcated sentence under sub. (1), the court may impose conditions upon the term of extended supervision.” Wis. Stat. § 973.01(5).

*Miller*, 175 Wis. 2d 204, 208, 499 N.W.2d 215 (Ct. App. 1993); Wis. Stat. § 973.09(1)(a)<sup>3</sup> (concerning probation conditions). For both types of supervision, the court is permitted to impose reasonable and appropriate conditions intended to rehabilitate the defendant and protect the community. *Id.*

The issue in this case does not turn on the court's discretion to impose a particular condition of supervision.<sup>4</sup> Mr. Williams-Holmes does not challenge the court's authority to impose a condition limiting his ability to live with women and unrelated children. Rather, this case turns on the circuit court's statutory authority to *administer* that condition. Thus, the issue is one of statutory interpretation, which this court reviews independently. *State v. Gray*, 225 Wis. 2d 39, 66, 590 N.W.2d 918 (1999).

The DOC has exclusive control over persons serving terms of probation and extended supervision. "Imposition of probation shall have the effect of placing the defendant in the custody of the [DOC] and shall subject the defendant to the control of the department . . . ." Wis. Stat. § 973.10(1). The DOC is responsible for "[a]dminister[ing] parole, extended

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<sup>3</sup> "The court may impose any conditions [of probation] which appear to be reasonable and appropriate." Wis. Stat. § 973.09(1)(a).

<sup>4</sup> This case involves an identical condition of extended supervision and probation. Although "extended supervision and probation are not the same," the differences are immaterial to the issue in this appeal. *State v. Galvan*, 2007 WI App 173, ¶14, 304 Wis. 2d 466, 736 N.W.2d 890. Therefore, this brief will refer to the conditions jointly as a condition of "supervision."

supervision, and probation matters . . . .” Wis. Stat. § 301.03(3).

The statutes do not authorize the circuit court to administer supervision, to revoke supervision, or to control supervised offenders. The circuit court’s role is limited to setting conditions of supervision. Wis. Stat. §§ 973.01(5); 973.09(1)(a). In contrast, the DOC is vested with sole statutory authority to administer supervision, control the offender, and sanction rule violations. Wis. Stat. § 301.03(3)(a)-(c); Wis. Stat. § 973.10.<sup>5</sup>

The circuit court’s authority in matters related to probation and extended supervision is limited to those granted by the legislature. Probation is purely a statutory creation; without the statute the court would have no authority to place a defendant on probation. *State v. Schwind*, 2019 WI 48, ¶¶23, 26, 386 Wis. 2d 526, 926 N.W.2d 742. The same is necessarily true for extended supervision, which did not exist until the legislature adopted Truth in Sentencing. *See State v. Brown*, 2006 WI 131, ¶44, 298 Wis. 2d 37, 725 N.W.2d 262. Under these statutory creations, the circuit court’s authority extends no further than the statutes provide. Because the authority for a circuit court to administer supervision does not appear in the statutes, it does not exist.

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<sup>5</sup> The Department of Administration is responsible for revocation proceedings, when necessary. Wis. Stat. § 301.03(3).

B. Caselaw supports this separation of powers and reinforces the court's inability to administer a condition once imposed.

Caselaw confirms that the circuit court's role is limited to ordering a term of supervision, setting conditions, and determining the sentence to be served if supervision is revoked. *See State v. Horn*, 226 Wis. 2d 637, 649, 594 N.W.2d 772 (1999). In *Horn*, the circuit court ruled that only the judicial branch could revoke probation, so the statute vesting that authority in the executive branch was unconstitutional. *Id.* at 641-42.

This court reversed, holding that the "administration of probation" was the responsibility of the executive branch. *Id.* at 651-52. The court observed that the legislature had granted the circuit court authority to impose a sentence, but that the judicial role ended at that point: "Whether a convicted defendant is sentenced to prison or the circuit court imposes probation, the adversary system has terminated and the administrative process, vested in the executive branch of the government, directed to the correctional and rehabilitative processes of the parole and probation system has been substituted in its place." *Id.* at 650 (internal punctuation omitted).

In another case, occurring before *Horn* was decided, the circuit court conducted a probation revocation hearing and revoked the defendant. *State v. Burchfield*, 230 Wis. 2d 348, 602 N.W.2d 154 (Ct. App. 1999). The defendant appealed and the State conceded that the circuit court had no authority to revoke

probation because the statute gave that power to the DOC. *Id.* at 353-54. The court of appeals agreed and reversed, holding that “the executive branch has *exclusive statutory authority to administer and to revoke probation.*” *Id.* at 349 (emphasis added).

Though *Horn* and *Burchfield* correctly read the statutes to grant the DOC exclusive authority to administer supervision, neither case defines what it means to “administer” probation. Previously, this court, relying on the dictionary,<sup>6</sup> held that “administer” means “to manage the affairs of[.] to direct or superintend the execution, use, or conduct of[.] to manage or conduct affairs[.]” *Wisconsin Dep’t of Tax’n v. Pabst*, 15 Wis. 2d 195, 201, 112 N.W.2d 161 (1961); *see also Manitowoc Cnty. v. Loc. 986A, AFSCME, AFL-CIO*, 170 Wis. 2d 692, 698, 489 N.W.2d 722, (Ct. App. 1992) (citing the same definitions). Merriam-Webster defines the term similarly: “to manage or supervise the execution, use, or conduct of.” Merriam-Webster Dictionary, *available at* <https://www.merriam-webster.com/dictionary/administer>.

These definitions make plain that the circuit court’s condition improperly seeks to administer Mr. Williams-Holmes’ supervision. The condition is directed at deciding which specific women or unrelated children Mr. Williams-Holmes can reside with. In this way, it seeks to “manage the affairs” of the

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<sup>6</sup> When the statutes do not define a term, the court relies on ordinary, dictionary definitions. *State v. A.L.*, 2019 WI 20, ¶16, 385 Wis. 2d 612, 923 N.W.2d 827.

supervision. Rather than delegating the specifics to the agent, the condition contemplates that the judge will make day-to-day decisions about where Mr. Williams-Holmes can live. And the court of appeals agreed that these routine decisions about Mr. Williams-Holmes' living situation was the improper administration of supervision, holding that "managing, directing, and superintending this supervision condition on a situation-by-situation basis" would require the court to improperly administer the condition. *Williams-Holmes*, 2022 WI App 38, ¶17; (App. 12).

The circuit court's statutory role was to impose the condition, restricting Mr. Williams-Holmes' ability to live with women or unrelated children. Wis. Stat. §§ 973.01(5), 973.09(1)(a). Deciding *which* women and children inherently calls for the administration of that condition; it calls for "manag[ing] or supervis[ing] the execution" of the court's supervision condition, which is the exclusive role of the DOC. Wis. Stat. § 301.03(3); Merriam-Webster Dictionary, *available at* <https://www.merriam-webster.com/dictionary/administer>.

The circuit court's limited authority after ordering supervision was recognized in *State v. Schell*, 2003 WI App 78, 261 Wis. 2d 841, 661 N.W.2d 503. There, the circuit court ordered the defendant to serve a term of probation, and imposed 100 days in jail as a condition of probation. *Id.*, ¶3. The sheriff's office, pursuant to Wis. Stat. § 302.425, placed the defendant on home monitoring for the jail term. *Id.*, ¶5. The defendant's ex-husband's wife complained to the court,

and the court ordered the defendant ineligible for home monitoring for the jail term. *Id.*

The court of appeals reversed, relying on *Horn*. The court held that the circuit court's authority ended after it ordered probation, and the statutes permitted the sheriff to release the defendant on home monitoring. *Id.*, ¶¶16, 18. The circuit court's authority was limited to that conferred by the statutes; the court could not override the sheriff's statutory authority to manage the county jails and place persons on home monitoring. *Id.*

A circuit court cannot invade the statutory role set out for the DOC, anymore than it could invade the sheriff's statutory role in *Schell*. The circuit court had no authority to decide how its condition was carried out. Once the condition was imposed, "the adversary system [was] terminated and the administrative process, vested in the executive branch of the government, directed to the correctional and rehabilitative processes of the parole and probation system [was] substituted in its place." *Horn*, 226 Wis. 2d at 650. The same reasoning applies here; the court could limit Mr. Williams-Holmes' ability to live with women or unrelated children, just as the court could order a conditional jail sentence in *Schell*. But the court must delegate the administration of that condition—the determination of which particular women or unrelated children Mr. Williams-Holmes could live with—to the DOC agent.



- C. The circuit court cannot use its authority to modify conditions of supervision to circumvent the statutes and invade the DOC's role.

The court of appeals recognized that the informal process contemplated by the circuit court—where the judge exchanged emails with the DOC agent to approve particular living situations—required the court to improperly administer supervision. *Williams-Holmes*, 2022 WI App 38, ¶17; (App. 12). But the court of appeals' proposed remedy doesn't solve that problem.

The court of appeals held that the circuit court could control which specific women or unrelated children Mr. Williams-Holmes lived with, but the “permission” had to be obtained through the statutory processes for amending conditions of probation or extended supervision. But this merely invites circuit courts to make an end-run around the DOC's exclusive authority to administer conditions of supervision. The court of appeals does not explain why this day-to-day management of the people Mr. Williams-Holmes can live with constitutes the administration of supervision if done informally, but is not administration if done through modification of the supervisory condition.

A circuit court can “modify” a condition of probation or extended supervision. Wis. Stat. §§302.117(7m) & 973.09(3)(a). This statutory authority allows the court to accomplish the theory of probation. *State v. Hays*, 173 Wis. 2d 439, 445, 496 N.W.2d 645 (Ct. App. 1992). In *Hays*, for example, the

court added a jail term as a condition of the defendant's probation after the defendant repeatedly violated the rules of supervision. *Id.*, at 442-43.

In *Linse*, a circuit court ordered that the defendant not have contact with the victim as a rule of probation. *State ex rel. Taylor v. Linse*, 161 Wis. 2d 719, 722, 469 N.W.2d 201 (Ct. App. 1991). The agent added a condition restricting the defendant's travel to a particular town. *Id.* The court struck that condition, finding that it was "inconsistent with the defendant's rehabilitation because it restricted his ability to establish a normal parental relationship with his daughter, including engaging in a series of extracurricular and social activities that the court believed were important to the defendant's rehabilitation." *Id.* The question on appeal was whether the court could modify a DOC-imposed rule of probation. The court of appeals held that the circuit court could use its statutory authority to modify conditions of probation to modify a DOC-imposed condition when it conflicted with the court's goals for the term of supervision. *Id.* at 723-24.

However, neither *Linse* nor the statutes invite circuit courts to preemptively manage the day-to-day affairs of individuals on supervision by requiring court-permission to engage in certain conduct. Rather, the modification process operates much like the process for setting conditions in the first place. The court determines the appropriate modification and amends the judgment to reflect the modification, but leaves to the DOC agent the responsibility to manage and administer the condition.

The due process protections required when modifying conditions of supervision make it impractical to rely on that authority to micromanage persons on supervision. In *Hays*, the court held that a probationer is entitled to a series of rights at a hearing to modify a condition, including: “(1) to be notified of the hearing and the reasons that are asserted in support of the request to modify probation; (2) to be present at the hearing; (3) to be given the chance to cross-examine witnesses, present witnesses, present other evidence and the right of allocution; (4) to have the conditions of probation modified on the basis of true and correct information; and (5) to be represented by counsel if confinement to the county jail is a potential modification of the conditions of probation.” 173 Wis. 2d at 446-47. Additionally, whichever party seeks to modify the condition must “establish by a clear preponderance of the evidence that there is cause to modify the terms and conditions of probation.” *Id.* at 448.<sup>7</sup>

These protections confirm that the process for modifying supervision conditions is not an invitation for circuit courts to circumvent the DOC. It would be truly impractical to hold a hearing and take testimony anytime the defendant sought to live with someone new. The procedure would also be redundant, as the standard terms of supervision require a defendant to get agent permission before changing his or her residence. Wis. Admin. Code (DOC) § 328.04(2)(h).

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<sup>7</sup> Though *Hays* addressed only a condition of probation, there is no principled reason to conclude the protections would be any different to modify a condition of extended supervision.

The circuit court could use this authority in any number of other areas to essentially make itself the DOC agent. The court could order the defendant to engage in no rehabilitative programming, or to not seek any employment, then require the defendant to ask the court to modify the condition to permit specific rehabilitation programs, or to work with a specific employer. These conditions would be materially identical to a condition requiring “court permission” to engage in rehabilitative programming or seek employment. Under either version of the condition, the court has squeezed out the agent, and sought to improperly administer the conditions of supervision.

Whether the circuit court has overstepped its statutory authority doesn’t depend on whether Mr. Williams-Holmes can change who he lives with by informally contacting the court (through his agent or an attorney), or if he has to formally file a petition to modify the terms of probation or extended supervision. Under either scheme, the circuit court is administering Mr. Williams-Holmes’ everyday living arrangements. Though Wis. Stat. § 302.117(7m) and § 973.09(3)(a) authorize the circuit court to modify conditions of supervision, the circuit court cannot use that statutory authority as a weapon to invade the DOC’s exclusive authority to administer probation and extended supervision.

- D. If this court agrees with the court of appeals that the statutory modification process can be used to administer conditions, it should remand to the circuit court.

The court of appeals' approach also had the effect of rewriting the condition without the circuit court's input. The postconviction order reflects the circuit court's intent to administer the condition through informal communication with the DOC agent about particular women or unrelated children. (64:3-4; App. 20-21.) But by reading the condition to require Mr. Williams-Holmes to seek formal modification of the condition, the circuit court must now hold a hearing and ensure all of the due process protections discussed in *Hays* are satisfied every time Mr. Williams-Holmes seeks to live with a different woman or unrelated child.

Therefore, if this court concludes the circuit court's proposed condition can be effectuated through the statutory processes for modifying a condition, it should remand to the circuit court to decide whether it wants to manage the condition in this manner. This would require the circuit court to rewrite its condition as a blanket ban on Mr. Williams-Holmes living with any women or children, then he or his agent would have to petition the court to modify that condition for

each woman or unrelated child Mr. Williams-Holmes sought to live with during the term of supervision.<sup>8</sup>

Ordering remand would also allow Mr. Williams-Holmes to preserve his right to challenge that new condition. Without arguing the matter here, a condition prohibiting him from living with *all* women and unrelated children may be subject to an overbreadth challenge, or for violating his First Amendment right to association. *See State v. Stewart*, 2006 WI App 67, 291 Wis. 2d 480, 713 N.W.2d 165 (reversing condition banning defendant from a particular township as overbroad).

The DOC must be trusted to administer court-imposed conditions of supervision. A presumption that the DOC will act reasonably oftentimes saves the constitutionality of certain supervisory conditions. The court should not be permitted to make the opposite presumption to evade the statutory

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<sup>8</sup> Notably, this reinterpretation would be particularly limiting under the term of extended supervision. A defendant can petition to modify a condition of extended supervision only once a year. Wis. Stat. § 302.113(7m)(e)2. Therefore, if the circuit court modifies its condition to allow Mr. Williams-Holmes to live with a particular woman in January, he would be unable to file another petition if, say, her child from another relationship needed to move in with them two months later, or if he decided to move in with his mother. Mr. Williams-Holmes would either have to hope that his agent filed a new petition on his behalf, Wis. Stat. § 302.113(7m)(d), or potentially have to find a new home, even if the judge were willing to allow the new living arrangement. And that new living arrangement couldn't be with another woman or unrelated child until he could file another petition in a year.

delegation of responsibility to the DOC. *See State v. King*, 2020 WI App 66, ¶55, 394 Wis. 2d 431, 950 N.W.2d 891; *State v. Miller*, 175 Wis. 2d 204, 212, 499 N.W.2d 215 (Ct. App. 1993); *State v. Koenig*, 2003 WI App 12, ¶¶14-15, 259 Wis. 2d 833, 656 N.W.2d 499.

In *King*, the circuit court imposed broad restrictions on the defendant's ability to access the internet, and required the defendant to get agent approval before using an internet-connected device, or accessing the internet. 2020 WI App 66, ¶15. The court of appeals affirmed the conditions, concluding that the conditions were constitutional because there was "no basis to conclude that his DOC agent will use his or her discretion unreasonably, and the circuit court can hear any reasonable requests from King if he believes that the DOC's actions are unreasonable." *Id.*, ¶55.

The condition in *King* strikes the proper balance between the circuit court and the DOC. The court imposed a condition aimed at protecting the public and the defendant's rehabilitation, based on his repeated impermissible use of the internet. *See id.*, ¶¶6, 9-12. But the court did not seek to decide which websites the defendant could visit, or require the defendant to come to court every time he wanted to open a new online account. Instead, the circuit court properly left these tasks to the DOC agent responsible for administering the condition. The circuit court would only become involved if the defendant felt the agent was construing the condition too restrictively, in which case he could return to the court to modify the condition. *Id.*, ¶55.

Most conditions of supervision will not implicate this statutory separation of powers because the condition flatly prohibits or commands certain conduct, and there is nothing for the DOC (or court) to administer. For example, the court can plainly order no contact with a crime victim or witnesses. *See* Wis. Stat. § 973.049(2) (permitting a court to order no contact with victims and witnesses). The DOC's only role would be to ensure the defendant's compliance with the condition, Wis. Admin. Code (DOC) § 328.04(2)(i),<sup>9</sup> and the defendant would have no protectible interest in contacting the crime victim.

The inherent problem with the condition in this case is that it expressly contemplates modification, and the circuit court's involvement in the day-to-day management of the condition. Such a condition calls for the administration of the condition, which can only be done by the DOC.

The circuit court possesses statutory authority to impose conditions of probation and extended supervision. Once the sentence is imposed, “[t]he judiciary phase of the criminal process . . . is complete,” and “the administrative process, vested in the executive branch of the government, directed to the correctional and rehabilitative processes of the parole and probation system [is] substituted in its place.” *Horn*, 226 Wis. 2d at 650.

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<sup>9</sup> The agent shall “[m]onitor the offender’s compliance with the conditions and rules . . . .” Wis. Admin. Code (DOC) § 328.04(2)(i)



The circuit court's lack of trust in the DOC to administer the condition does not permit the court to circumvent the DOC, and usurp its statutory role. The condition requiring court permission before Mr. Williams-Holmes may live with women or unrelated children requires tinkering with the day-to-day affairs of his supervision. Whether accomplished through informal communication between the judge and DOC agent, or through the formal process for modifying conditions of supervision, this condition impermissibly invites the circuit court to administer supervision. Consequently, the condition must be modified to require Mr. Williams-Holmes to obtain permission from his DOC supervision agent.

### CONCLUSION

For the reasons stated above, Mr. Williams-Holmes asks that the court reverse, and remand with instructions that the judgment of conviction be modified to require Mr. Williams-Holmes to obtain *agent* permission to live with any particular women or unrelated children.

If the court concludes the circuit court can choose the particular women or unrelated children Mr. Williams-Holmes can live with through the statutory processes for modifying conditions of probation or extended supervision, he asks that the court reverse and remand for the circuit court to choose whether it wishes to impose a condition prohibiting Mr. Williams-Holmes from living with any women or unrelated children, which would be subject to statutory modification.

Dated this 15<sup>th</sup> day of December, 2022.

Respectfully submitted,

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### **CERTIFICATION AS TO FORM/LENGTH**

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 4,425 words.

### **CERTIFICATE OF COMPLIANCE WITH RULE 809.19(12)**

I hereby certify that I have submitted an electronic copy of this brief, excluding the appendix, if any, which complies with the requirements of § 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.

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 15<sup>th</sup> day of December, 2022.

Signed:

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