STATE OF WISCONSIN
COURT OF APPEALS
DISTRICT IV

Appellate Case No. 2022AP644-CR

STATE OF WISCONSIN,

Plaintiff-Respondent,

-vs-

TODD W. VAUGHAN,

Defendant-Appellant.

APPEAL FROM A JUDGMENT OF CONVICTION ENTERED IN THE CIRCUIT COURT FOR WAUPACA COUNTY, BRANCH III, THE HONORABLE RAYMOND HUBER PRESIDING, TRIAL COURT CASE NO. 19-CT-189

BRIEF & APPENDIX OF DEFENDANT-APPELLANT

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STATEMENT OF THE ISSUE

WHETHER AN UNCORROBORATED ANONYMOUS TIP PROVIDED SUFFICIENT GROUNDS UPON WHICH TO DETAIN MR. VAUGHAN'S VEHICLE UNDER THE FOURTH AMENDMENT?

> Trial Court Answered: YES. The circuit court concluded that "when you couple the fact that within 5 or 6 minutes of a 911 call a vehicle matching the description of the vehicle is in Manawa heading in a northerly direction, which would be a direction toward Marion; when the officer can run the plate after getting behind the car and the—the registration on the vehicle is returned to the individual who was said to be driving the car and was the impaired driver, we are getting multiple layers of predictability and believability of the tip. So, at this point in time, while I indicate it's a close call, I'm going to deny the motion to suppress." R70 at 37:13-25; D-App. at 105.

STATEMENT ON ORAL ARGUMENT

The Defendant-Appellant will NOT REQUEST oral argument as this appeal presents a single question of law based upon a set of uncontroverted facts. The issue presented herein is of a nature that can be addressed by the application of long-standing legal principles, the type of which would not be enhanced by oral argument.

STATEMENT ON PUBLICATION

Mr. Vaughan will NOT REQUEST publication of this Court's decision as the common law authorities which set forth the standard for detaining an individual based upon anonymously tipped information are well-settled.

STATEMENT OF THE CASE

On July 29, 2019, Mr. Vaughan was charged in Waupaca County with Operating a Motor Vehicle While Under the Influence of an Intoxicant—Second Offense, contrary to Wis. Stat. § 346.63(1)(a); Operating a Motor with a Prohibited Alcohol Concentration—Second Offense, contrary to Wis. Stat. § 346.63(1)(b); and with Unlawfully Refusing to Submit to an Implied Consent Test, contrary to Wis. Stat. § 343.305(9)(a). R1.

After retaining counsel, Mr. Vaughan filed a motion to suppress evidence based upon the fact that the anonymously tipped information upon which his initial detention was premised could not be sufficiently corroborated. R49. An evidentiary

hearing was held on Mr. Vaughan's motion on January 13, 2022. R70. The State offered the testimony of a single witness, the arresting officer, Deputy Brittany Mathewson.[1] R70 at 4:17 to 32:20.

At the conclusion of the hearing, the court denied Mr. Vaughan's motion, finding that:

> [W]hen you couple the fact that within 5 or 6 minutes of a 911 call a vehicle matching the description of the vehicle is in Manawa heading in a northerly direction, which would be a direction toward Marion; when the officer can run the plate after getting behind the car and the—the registration on the vehicle is returned to the individual who was said to be driving the car and was the impaired driver, we are getting multiple layers of predictability and believability of the tip.
>
> So, at this point in time, while I indicate it's a close call, I'm going to deny the motion to suppress.

R70 at 37:13-25; D-App. at 105.

On January 24, 2022, Mr. Vaughan changed his plea to one of no contest upon which the court found him guilty and sentenced him accordingly. R67; D-App. at 101-02.

It is from the adverse judgment of the circuit court that Mr. Vaughan now appeals to this Court by Notice of Appeal filed on April 19, 2022. R73.

STATEMENT OF FACTS

While on routine patrol on June 16, 2019, Deputy Brittany Mathewson of the Waupaca County Sheriff's Office received information from her dispatcher that "a green Mazda Miata convertible operated by a single male" who was intoxicated had driven "all over [a] golf course hitting posts and then took off." R70 at 6:3-4; 6:21 to 7:1. At the time the information was dispatched to Deputy Mathewson, the direction of travel of the vehicle was unknown. R70 at 8:23-24. Additionally, the individual who reported the complaint was unknown. R70 at 11:13-16; 14:13-15.

After receiving the foregoing information, while parked in the City of Manawa, Deputy Mathewson observed a vehicle matching the description given to her by the dispatcher, and based upon this information, she detained a vehicle being operated by the Appellant, Todd Vaughan. R70 at 9:8-24. When questioned on

[1]Deputy Mathewson has since wed and her last name is now Goodreau, however, because at the time of Mr. Vaughan's detention her last name was Mathewson, Mr. Vaughan will use that surname throughout this brief.

direct examination "[w]hat information from the anonymous—from the call did you corroborate prior to the stop," Deputy Mathewson responded "[t]he vehicle color, make, model, single male occupant, location I believe was somewhat key due to being so close, also kind of corroborated." R70 at 11:7-12.

Prior to effectuating the stop of the Mazda Miata, Deputy Mathewson did not "observe any problems with the driving behavior" of the vehicle. R70 at 16:21-23.

STANDARD OF REVIEW

The question presented to this Court relates to whether Mr. Vaughan's Fourth Amendment rights were violated when the arresting officer in the instant case stopped his motor vehicle based upon an uncorroborated anonymous tip. This is a question of law based upon an undisputed set of facts, and therefore, merits *de novo* review by this Court. *State v. Drogsvold*, 104 Wis. 2d 247, 311 N.W.2d 243 (Ct. App. 1981).

ARGUMENT

I. THE LAW IN WISCONSIN AS IT RELATES TO REASONABLE SUSPICION TO DETAIN AN INDIVIDUAL UNDER THE FOURTH AMENDMENT IN THE CONTEXT OF ANONYMOUSLY TIPPED INFORMATION.

A. The Fourth Amendment in General.

The starting point for any analysis of the constitutionality of a seizure must begin with the foundations established by the Fourth Amendment itself. The Fourth Amendment to the United States Constitution provides:

> The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

U.S. Const. amend. IV. "The Fourth Amendment's purpose is to prevent arbitrary and oppressive interference by law enforcement officials with the privacy and personal security of individuals." *State v. Riechl*, 114 Wis. 2d 511, 515, 339 N.W.2d 127 (Ct. App. 1983). Capricious or arbitrary police action is not tolerated under the umbrella of the Fourth Amendment. "The basic purpose of this prohibition is to safeguard the privacy and security of individuals against arbitrary invasions by government officials." *State v. Boggess*, 115 Wis. 2d 443, 448-49, 340 N.W.2d 516 (1983); *see also Camara v. Municipal Court*, 387 U.S. 523, 528 (1967).

The Wisconsin Constitution provides coextensive protections against unreasonable searches and seizures under Article I, § 11. Wisconsin courts interpret the protections granted by Article 1, § 11 of Wisconsin's Constitution identically to those afforded by the Fourth Amendment. *See State v. Kramer*, 2009 WI 14, ¶ 18, 315 Wis. 2d 414, 759 N.W.2d 598; *State v. Phillips*, 218 Wis. 2d 180, ¶ 21, 577 N.W.2d 794 (1998).

Both federal and state courts have consistently held that "[c]onstitutional provisions for the security of persons and property should be **liberally construed**." *Mapp v. Ohio*, 367 U.S. 643, 647 (1961)(emphasis added), citing *Boyd v. United States*, 116 U.S. 616, 635 (1886). "A close and literal construction deprives [these protections] of half their efficacy, and leads to gradual depreciation of the right [to be free from unreasonable searches and seizures], as if it consisted more in sound than in substance. **It is the duty of courts to be watchful for the constitutional rights of the citizen, and against any stealthy encroachments thereon**." *Schneckloth v. Bustamonte*, 412 U.S. 218, 229 (1973)(emphasis added).

The foregoing authority does not stand alone as time and again the Supreme Court has consistently repeated that the Fourth Amendment "guaranties are to be **liberally construed to prevent impairment of the protection extended**." *Grau v. United States*, 287 U.S. 124, 127 (1932)(emphasis added). The High Court has admonished that "all owe the duty of vigilance for [the Fourth Amendment's] effective enforcement lest there shall be impairment of the rights for the protection of which it was adopted." *Go-Bart Importing Co. v. United States*, 282 U.S. 344, 357 (1931).

With these stringent pronouncements as a backdrop against which all law enforcement conduct must be measured, Deputy Mathewson's actions in the present case can be scrutinized.

B. The Reasonable Suspicion Standard.

Before examining the issue which lies at the heart of Mr. Vaughan's appeal—*i.e.*, the question of whether the anonymously tipped information provided to Deputy Mathewson was sufficiently corroborated—a preliminary matter must first be disposed of: namely, whether independent facts existed apart from the tipped information which would constitutionally justify a detention of the Vaughan vehicle under the Fourth Amendment's "reasonable suspicion" standard? The short answer to this question is: No.

Within the ambit of the Fourth Amendment, there are recognized three levels of encounter, namely: (1) the "simple encounter" for which the individual is

afforded no constitutional protection because his or her movement is not restricted; (2) the investigatory detention, or *Terry* stop, for which the officer must have a "reasonable suspicion" to detain the person, *see Terry v. Ohio*, 392 U.S. 1 (1968); and (3) the custodial arrest which requires probable cause. *State v. Welsh*, 108 Wis. 2d 319, 321 N.W.2d 245 (1982); *Henry v. United States*, 361 U.S. 98 (1959).

For purposes of determining whether Deputy Mathewson's actions had an independent basis for detaining Mr. Vaughan's vehicle apart from the anonymously tipped information under the Fourth Amendment, the inquiry involves ascertaining whether they were reasonable under the "totality of the circumstances." The test for determining the constitutionality of an investigative stop is an objective test of reasonableness. *Terry*, 392 U.S. at 20-21.

> The test is an objective test. Law enforcement officers may only infringe on the individual's interest to be free of a stop and detention if they have a suspicion grounded in specific, articulable facts and reasonable inferences from those facts, that **the individual has committed a crime**. An inchoate and unparticularized suspicion or 'hunch'. . . will not suffice.

State v. Guzy, 139 Wis. 2d 663, 675, 407 N.W.2d 548 (1987)(internal quotations omitted; emphasis added); *United States v. Pavelski*, 789 F.2d 485, 489 (7th Cir. 1986).

Whether an investigatory detention is constitutionally reasonable turns upon:

> 'a particularized and objective basis' **for suspecting the person stopped [is engaged in] criminal activity**. *Ornelas v. United States*, 517 U.S. 690, 696, 134 L. Ed. 2d 911, 116 S. Ct. 1657 (1996)(citation omitted). When determining if the standard of reasonable suspicion [is] met, those facts known to the officer must be considered together as a totality of the circumstances. *State v. Richardson*, 156 Wis. 2d 128, 139-40, 456 N.W.2d 830 (1990).

State v. Powers, 2004 WI App. 143, ¶ 7, 275 Wis. 2d 456, 685 N.W.2d 869 (emphasis added). Absent proof of any wrongdoing, a detention is constitutionally unreasonable.

The notion that an investigatory detention is constitutionally justifiable is built upon there being a "particularized basis" for suspecting that the person who is detained is engaged in some illegal activity. *Ornelas*, 517 U.S. at 696. A particularized basis is one which requires that there be some nexus, or link, between the suspect and **an alleged violation**. Absent a nexus between the suspect and the potential violation, a detention is constitutionally unreasonable under the Fourth Amendment.

The United States Supreme Court emphasized the need for a particularized suspicion of wrongdoing in *United States v. Cortez*, 499 U.S. 411 (1981). Therein the Court clarified that the totality of the circumstances

> must raise a suspicion that the *particular individual being stopped is engaged in wrongdoing*. Chief Justice Warren, speaking for the Court in *Terry v. Ohio, supra*, said '[that] this demand for specificity in the information upon which police action is predicated is *the central teaching of this Court's Fourth Amendment jurisprudence*.'

Cortez, 499 U.S. at 418 (emphasis in original in part, added in part), citing *Brown v. Texas*, 443 U.S. 47, 51 (1979); *Delaware v. Prouse*, 440 U.S. 648, 661-63 (1979); *United States v. Brignoni-Ponce*, 422 U.S. 873, 884 (1975).

Based upon the foregoing authority, this Court singularly faces but one question: Did the anonymously tipped information provided to Deputy Mathewson justify a detention of Mr. Vaughan's vehicle under the Fourth Amendment? No independent grounds justifying the stop of the Vaughan vehicle were proffered by the State nor do they exist in this record. R70, *passim*. To the contrary, Deputy Mathewson conceded on cross examination that there were ***no*** "problems with the driving behavior" of the Vaughan vehicle. R70 at 16:21-23. The nexus required between Mr. Vaughan's driving behavior and some "wrongdoing" as required under *Cortez*, *Brignoni-Ponce*, *Prouse*, *Ornelas*, *Powers*, *Richardson* and their progeny, simply does not exist to justify a stop based upon an independent "reasonable suspicion to detain." If there is no basis for reasonable suspicion, a search conducted during the detention is invalid and the fruits thereof must be suppressed. *Minnesota v. Dickerson*, 508 U.S. 366, 379 (1993).

With this understanding, attention may now be focused on the law relating to the corroboration of anonymously tipped information.

C. Verifying Tipped Information Under the Fourth Amendment.

The common law recognizes that there are instances in which a law enforcement officer will not initially be the individual who directly observes allegedly illegal conduct in which a suspect is engaged, but rather receives "tipped" information from a citizen witness. *See, e.g., Illinois v. Gates*, 462 U.S. 213 (1983). In these instances, a question arises under the Fourth Amendment's reasonableness standard as to what corroboration is necessary for a law enforcement officer to effectuate a constitutionally valid *Terry* stop based upon tipped information. *Id*.

The foregoing question was resolved by the Supreme Court in *Gates*. The *Gates* Court held that when examining whether tipped information is actionable by law enforcement officers, one must examine the tipped information under the "totality of the circumstances" and assess the tipster's information in light of its basis of knowledge, veracity, and credibility as a whole rather than as some formulaic test.[2]

Among the leading United States Supreme Court decisions which provide guidance on the issue of whether an anonymous tip provides sufficient grounds upon which to detain a vehicle is *Florida v. J.L.*, 529 U.S. 266 (2000).

In *J.L.*, an anonymous caller contacted the Miami-Dade Police and informed them that a black male wearing a plaid shirt, who was standing at a particular bus stop, was carrying a concealed gun. *Id.* at 268. Officers were dispatched to the location and, upon arriving, observed three black males at the designated street corner doing nothing which could be characterized as suspicious. *Id.* Among them was an individual who wore a plaid shirt. *Id.* Notably, nothing was "known about the informant." *Id*.

In reaching its decision that the lack of any predictive information in the foregoing anonymous tip "left the police without means to test the informant's knowledge or credibility," and therefore, rendered J.L.'s detention unconstitutional, the Court relied upon *Alabama v. White*, 496 U.S. (1990), for the proposition that "specific indicia of reliability" in an anonymous tip case requires "the correct forecast of a subject's 'not easily predicted' movements." *J.L.*, 529 U.S. at 269, 271, quoting *White*, 496 U.S. at 332. In so doing, however, the *J.L.* Court warned that:

> Although we held that the suspicion in *White* became reasonable after police surveillance, **we regard the case as borderline**. Knowledge about a person's future movements indicates some familiarity with the person's affairs, **but having such knowledge does not necessarily imply that the informant knows, in**

[2]More specifically, when the United States Supreme Court modified how the prongs of the "*Aguilar-Spinelli*" test ought to be applied in future cases, the Supreme Court indicated that the new test would involve an examination of the "totality of the circumstances" in which everything related to the tipped information—its basis of knowledge, veracity, and reliability—would be fair game and one in which the weakness of one factor could be bolstered by an exceptionally strong showing in another. *Gates*, 462 U.S. at 230-31.

> **particular, whether that person is** [committing an offence]. We accordingly classified *White* as a 'close case.'

J.L., 529 U.S. at 271 (emphasis added).

Because the stop and subsequent frisk for weapons in *J.L.* was not supported by reasonable suspicion, it occurred in derogation of J.L.'s Fourth Amendment right to be free from unreasonable searches and seizures. *Id.* The Court further determined that the police in *J.L.* conducted no independent observation or investigation to corroborate the alleged criminal conduct prior to executing the investigatory stop. ***Id.*** at 268. The police testified that they went to the named bus stop, "saw three black males just hanging out" and that one of the males was wearing a plaid shirt. *Id.* The officers observed no weapons and "[a]part from the anonymous tip . . . had no reason to suspect any of the three of illegal conduct . . . and J.L. made no threatening or otherwise unusual movements." *Id.* Reasonable suspicion requires that a tip be reliable in its assertion of illegality, not just in its tendency to identify a determinate person. ***Id.*** at 272. More specifically, the *J.L.* Court's decision is worth quoting at length here:

> The reasonableness of official suspicion must be measured by what the officers knew before they conducted their search. **All the police had to go on in this case was the bare report of an unknown, unaccountable informant who neither explained how he knew about the gun nor supplied any basis for believing he had inside information about J. L.** If *White* was a close case on the reliability of anonymous tips, this one surely falls on the other side of the line.
>
> Florida contends that the tip was reliable because its description of the suspect's visible attributes proved accurate: There really was a young black male wearing a plaid shirt at the bus stop. Brief for Petitioner 20-21. The United States as *amicus curiae* makes a similar argument, proposing that a stop and frisk should be permitted "when (1) an anonymous tip provides a description of a particular person at a particular location illegally carrying a concealed firearm, (2) police promptly verify the pertinent details of the tip except the existence of the firearm, and (3) there are no factors that cast doubt on the reliability of the tip . . . ." Brief for United States 16. These contentions misapprehend the reliability needed for a tip to justify a *Terry* stop.
>
> **An accurate description of a subject's readily observable location and appearance is of course reliable in this limited sense: It will help the police correctly identify the person whom the tipster means to accuse. Such a tip, however, does not show that the tipster has knowledge of concealed criminal**

> **activity**. **The reasonable suspicion here at issue requires that a tip be reliable in its assertion of illegality, not just in its tendency to identify a determinate person**. *Cf.* 4 W. LaFave, *Search and Seizure*, § 9.4(h), p.213 (3d ed. 1996) (distinguishing reliability as to identification, which is often important in other criminal law contexts, from reliability as to the likelihood of criminal activity, which is central in anonymous-tip cases).

J.L., 529 U.S. at 271-72 (emphasis added).

Shortly after the Supreme Court's decision in *J.L.*, the Wisconsin Supreme Court applied the reasoning in *J.L.* to its analysis of the reasonableness of an investigatory stop based on an anonymous tip. *State v. Williams,* 2001 WI 21, 241 Wis. 2d 631, 623 N.W.2d 106. The *Williams* court discussed the necessary quantity and quality of information which, *when known at the time of the stop,* could support reasonable suspicion. *Id.* ¶ 47. The factors which the *Williams* court identified as worthy of consideration included: (1) whether the anonymous tipster risked identification; (2) whether the tipster explained how he or she knew about the reported criminal behavior; (3) whether the tipster was a citizen informant (*i.e.*, reporting observations of the criminal activity, but not an active participant in the criminal acts); (4) whether "the tip contained only information readily observable by passersby"; (5) whether the information provided contained predictive information about future behavior by the subject; and (6) whether the police either independently corroborated any of the predictive information supplied by the tipster or observed any criminal or suspicious behavior on the part of the subject. *Id*. at ¶¶ 33-34, 37, 39-40, 42.

Employing the *J.L.* and *Williams* standard to the facts of the instant case, as discussed below, yields but one conclusion, to wit: Deputy Mathewson lacked sufficient corroboration of the anonymously tipped information upon which to base her decision to detain the Vaughan vehicle.

II. APPLICATION OF THE LAW TO THE FACTS.

In the present case, the anonymous tip was insufficient to establish reasonable suspicion to seize Mr. Vaughan. As the *Williams* court acknowledged, the fact that the tipster remained anonymous and did not risk identification undercuts the potential reliability and credibility of the information provided. Likewise, the tipster failed to demonstrate or explain how they knew about the

unlawful behavior in which they claimed Mr. Vaughen engaged. All Deputy Mathewson knew was that "a green Mazda Miata convertible operated by a single male" who was intoxicated had driven "all over [a] golf course hitting posts and then took off." R70 at 6:3-4; 6:21 to 7:1.

The tipster did not provide any information regarding *how* it was that he or she knew this information—a primary concern about which the *J.L.* Court warned. *J.L.*, 529 U.S. at 271-72. Did the tipster observe the alleged driving behavior firsthand or was it merely relayed to him or her by another individual? Did the tipster merely hear a commotion outside and report about what s/he thought might have caused it? Does the tipster have an "axe to grind" with Mr. Vaughan? The plethora of unknowns seriously diminishes the reliability and/or credibility of the tipped information. Unlike the present case, the tipster in *Williams* made it clear that she was an *eyewitness*. *Williams*, 2001 WI 21, ¶ 4. There is no information in the instant case that the anonymous tipster actually eyewitnesses the alleged misbehavior.

Similarly, there is *no* evidence in the record whatsoever that Deputy Mathewson was able to confirm that the Vauhgan vehicle had been involved in any accident or had struck any post.

Additionally, the driving observed by Deputy Matthewson shows the vehicle being operated appropriately, without any poor driving being corroborated.

For all these reasons, Deputy Mathewson failed to adequately corroborate "sufficient predictive facts" to warrant a stop based on reasonable suspicion. Deputy Mathewson admitted on direct examination that her dispatcher "gave out [an] unknown direction of travel." R70 at 8:23-24; 17:13 to 18:6. All the officer was able to verify was the type of vehicle, the plate number and the general location, which is a fraction of the facts that the police were able to corroborate in *White*. In the present case, the police could not corroborate any predictive information because of the limited nature of the information, which falls well short of reasonable suspicion.

Further, the police also failed to observe any suspicious behavior of the defendant. In *Williams*, the stop was justified because the vehicle had no license plates and also witnessed suspicious movements by the vehicles' occupants.

Williams, 2001 WI 21, ¶ 8. In the present case, the officer simply happened upon Mr. Vaughan. Some indica of reliability is needed to distinguish a legitimate citizen informant from a mere prankster, or person seeking only to cause trouble for the person anonymously informed against. *Williams*, 2001 WI 21.

Perhaps Mr. Vaughan's point in the foregoing regard is best made by analogy. Assume, *arguendo*, law enforcement officers receive an anonymous tip that, at a particularly described address, the homeowner, a person named John Smith, is selling cocaine. Further assume that the tipster reports that a male individual will be walking out of the home at a particular time. If law enforcement officers find the residence, surveil it, and observe a male individual walk out of the residence at the predesignated time, they have done nothing more than corroborate the *identity* of the Smith home, but *not* the *illegality* of the conduct described by the caller as the *J.L.* Court admonished they should. *See J.L.*, 529 U.S. at 271-72. In such an instant, the *J.L.* Court would not find that the homeowner, John Smith, was constitutionally detained if the officers approached him on his porch to conduct an investigatory detention.

Now, compare the facts of the foregoing hypothetical to the facts of this case. The described home is akin to the description of the green Mazda Miata herein. The fact that the homeowner is specifically named as John Smith is directly on-point with the naming of Mr. Vaughan as the owner of the Miata. The fact that an individual walked out of the home at a pre-designated time is a future behavior, just as Mr. Vaughan's being out and about on a public roadway is also a "predicted behavior." Nevertheless, these corroborating facts—*in the absence of any bad driving and any evidence of damage to the Vaughan vehicle*—are not sufficient under *J.L.* This is a *totality* of the circumstances test as the *Gates* Court noted, and considering the totality of these circumstance, which "totality" includes the *absence of any poor driving or vehicular damage*, the anonymous tip at issue in the instant matter has not been sufficiently corroborated, and this Court should reverse the decision of the court below.

CONCLUSION

Because Deputy Mathewson failed to properly corroborate the anonymously tipped information she received from her dispatcher, Mr. Vaughan respectfully

requests that this Court reverse the decision of the lower court and remand this matter for further proceedings not inconsistent with the Court's judgment.

Dated this 23rd day of June, 2022.

Respectfully submitted:
MELOWSKI & SINGH, LLC

Electronically signed by:
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CERTIFICATIONS

I hereby certify that this brief conforms to the rules contained in Wis. Stat. § 809.19(8)(b), (bm), and (c) for a brief. The length of this brief is 5,126 words.

I hereby certify that filed with this brief is an appendix that complies with s. 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 s. 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.

I hereby certify that I have submitted both an electronic copy of this brief and an appendix which comply with the requirements of Wis. Stat. § 809.19.

Dated this 23rd day of June, 2022.

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