STATE OF WISCONSIN
COURT OF APPEALS
DISTRICT III

Case No. 2022AP001695-CR

STATE OF WISCONSIN,

Plaintiff-Respondent,

vs.

MATTHEW ROBERT MAYOTTE,

Defendant-Appellant.

APPEAL FROM A JUDGMENT AND ORDER OF THE CIRCUIT COURT OF TAYLOR COUNTY THE HONORABLE ANTHONY J. STELLA JR. PRESIDING

BRIEF OF DEFENDANT-APPELLANT

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STATEMENT OF THE ISSUES

I. IS MAYOTTE ALLOWED TO WITHDRAW HIS PLEA DUE TO BEING ADVISED BY COUNSEL THAT HE COULD APPEAL A PRETRIAL MOTION TO DISMISS FOLLOWING ENTRY OF HIS PLEA.

Trial Court Answered: No.

STATEMENT ON ORAL ARGUMENT AND PUBLICATION

The Defendant-Appellant believes that the briefs will fully present and meet the issues on appeal and will fully develop the theories and legal authority governing the issues, and therefore oral argument would be of little value to the court as the law applicable to this case is already well settled.

STANDARD OF REVIEW

A circuit court's decision to permit the withdrawal of a plea is ordinarily a matter of the circuit court's discretion, and this court reviews the circuit court's determination under an erroneous exercise of discretion standard. State v. Thomas, 2000 WI 13, ¶13, 232 Wis. 2d 714, 605 N.W.2d 836 (citing State ex rel. Warren v. Schwarz, 219 Wis. 2d 615, ¶32, 579 N.W.2d 698 (1998)). Further, in accepting a plea, the circuit court must make findings of fact. The appellate court does not disturb a circuit court's findings of fact, except in situations where those findings are contrary to the great weight and clear preponderance of

the evidence. State v. Bangert, 131 Wis. 2d 246, 283-84, 389 N.W.2d 12 (1986) (citing State v. Woods, 117 Wis. 2d 701, 715, 345 N.W.2d 457 (1984)).

However, where "a defendant establishes a denial of a relevant constitutional right . . . withdrawal of the plea is a matter of right." State v. Van Camp, 213 Wis. 2d 131, 139, 569 N.W.2d 577 (1997) (citing Bangert, 131 Wis. 2d at 283). Therefore, if the defendant demonstrates that the plea is constitutionally infirm, "[t]he trial court reviewing the motion to withdraw in such instance has no discretion in the matter." Id. In such cases, this court independently reviews the trial court's determination. see State v. Cross, 2010 WI 70, ¶14, 326 Wis. 2d 492, 786 N.W.2d 64 (2011).

STATEMENT OF FACTS

On September 14, 2019, JM contacted the Taylor Counrty Sheriff's Office to report that his brother, Matthew Mayotte, the defendant, had access to the Taylor County Courthouse, 224 S. 2nd Street, in the City of Medford, Taylor County, Wisconsin. (R2:2) JM stated that Matthew stole a set of keys from District Attorney KT. (R2:2) Since the time that Matthew stole the keys, JM alleged that Matthew had gone to the top of the courthouse and changed the time on the tower clock. (R2:2) Matthew apparently took "selfie" photographs of

himself on his cellular phone while he was up in the clock tower/dome of the courthouse. (R2:2) While reporting this conduct, JM said Matthew is currently at his house drunk and he is also on bond. (R2:2)

Medford Police Officer Matt Hoops followed up on the information provided by JM. (R2:2) Hoops learned that Taylor County District Attorney's Office employee, AM, lost her keys at the courthouse on September 5, 2019. (R2:2) Taylor County Grounds/Maintenance Director, Jeff Ludwig, confirmed that the courthouse tower clock had been tampered with and the clock tower unit had to be repaired. (R2:2) Officers later learned was further learned that the District Attorney's case file on Matthew's open felony court case 2019CF40 was missing. (R2:2)

Surveillance video from the courthouse showed a person wearing a green hooded sweatshirt enter the District Attorney's Office on the 2nd floor of the courthouse on September 6, 2019 at 3:20 a.m. (R2:2) The suspect was wearing a hood and his face could not be seen in the video. (R2:2) The individual is not carrying anything visible when he enters the District Attorney's Office at approximately 3:35 a.m. (R2:2) The same subject exits the District Attorney's Office carrying what appears to be a case file and leaves the area. (R2:2)

Further, on September 14, 2019, officers served a search warrant on Matthew Mayotte's residence, 248 S. 3rd Street, in the City of Medford. (R2:3) Officers were aware that Matthew resides with RP at this address. (R2:3) Upon entering the residence, Detective Aemus Balsis and Deputy Karie Thums of the Taylor County Sher iff's Department started to ascend a set of stairs to the second story of the residence. (R2:3) A person who Balsis recognized as RP appeared at the top of the stairs. (R2:3) RP told officer that Matthew was still in his bedroom upstairs. (R2:3) Matthew was eventually taken into custody (R2:3) Detective Balsis noted that Matthew was intoxicated. (R2:3)

Detective Balsis spoke with RP who admitted that he knew about the missing set of keys and that Matthew had a set of keys belonging to the District Attorney in Taylor County. (R2:3) He further stated that the keys said "DA" on them. (R2:3) RP told officers that Matthew found them in the Taylor County Courthouse parking lot about a week ago. (R2:3) RP said that Matthew's girlfriend, J, told him that Matthew found the keys at the courthouse. (R2:3) J then told RP that Matthew went to the District Attorney's Office and stole his court case file along with the court case file of another unknown person. (R2:3) RP told officers that Matthew did this all by

himself and no one else was involved. (R2:3) RP said Matthew burned the court case files in the burn pit outside his house. (R2:3) RP said he had no knowledge of the current location of the keys. (R2:3) Balsis searched the fire pit on the east side of the residence and located the remnants of burnt court paperwork in the fire pit. (R2:3) Balsis later reviewed the documents recovered from the fire pit. (R2:3) Officers determined that the recovered documents were related to a case which did not involve Mayotte but which the case file was missing from the District Attorney's office. (R2:3)

On September 14, 2019, Balsis met with JA, Matthew's girlfriend. (R2:3) JA said Matthew admitted that Matthew told her he found a set of keys belonging to the D.A. somewhere on the courthouse property. (R2:3) She indicated Matthew had possession of the keys on September 6, 2019 as she personally saw them in his possession. (R2:3) She told officers she has no idea where the keys were currently located. (R2:3) She stated she told Matthew to return the keys, but he said it was too late. (R2:3) JA indicated that Matthew told her he used the keys and went into the D.A.'s Office earlier that day and took his court case file and the file of which officers recovered documents from the burn pit. (R2:3-4) JA stated she never saw the files. (R2:4) She also disclosed

that the files were burnt and she assumes Matthew burnt them in the fire pit at his house. (R2:4)

On September 16, 2019, Detective Balsis reviewed Taylor County Courthouse complex surveillance video from the early morning hours of September 6, 2019. (R2:4) That video showed that on September 6, 2019 at 2:52 a.m., a subject is seen entering the building using the north entrance which would have required a key fob. (R2:4) Balsis reported that he could not obtain a description of the subject, as the subject only appeared as a dark silhouette. (R2:4) The video shows the subject ascend the stairway at that location at 3:19 a.m.. (R2:4) The male subject next seen is standing outside the restroom on the 3rd floor near the door leading to the dome/clock tower. (R2:4) The subject is wearing jeans, and a hooded sweatshirt that appears to be green in color. (R2:4) The hood of the sweatshirt is pulled over the subject's head and there is a clear design on the front of the shirt. (R2:4) At 3:20 a.m., the subject is walking down the hallway towards the District Attorney's Office from the courtroom lobby area. (R2:4) The subject is wearing the same clothing as previously seen in the video. (R2:4) At 3:35 a.m., the subject is walking down the hallway towards the courtroom lobby area from the D.A.'s Office. (R2:4) The subject is wearing the same clothing

as described above and the subject has paperwork/file(s) in his hand. (R2:4)

On September 16, 2019, Balsis made contact with RP at his residence. (R2:5) Balsis asked RP if Balsis could look through his house for the sweatshirt. (R2:5) RP granted Balsis consent. (R2:5) Balsis located a brown hooded sweatshirt that he believed had a lot of the same similarities of the sweatshirt worn by the suspect in the video. (R2:5) Balsis noted the print on the back of this sweatshirt was in the lower right, while the print on the suspect's sweatshirt on surveillance video was on the lower left. (R2:5) He also noticed this sweatshirt was solid brown on the outside and there were no distinct pattern differences on the outside of the hood like the sweatshirt worn by the suspect. (R2:5); Balsis then turned the brown sweatshirt inside-out and reported what he believed to be significant similarities between the sweatshirt recovered and the appearance of the sweatshirt in the video. (R2:5) RP said the sweatshirt did not belong to him and believed the shirt either belonged to Matthew or his nephew. (R2:5)

STATEMENT OF CASE

On October 25, 2019, an Information was filed against Mr. Mayotte charging one count of Burglary of a Building,

contrary to sections 943.10(1m)(a) and 939.50(3)(f), stats.; one count of Felony Bail Jumping, contrary to sections 946.49(1)(b) and 939.50(3)(h), stats.; one count of Misdemeanor Theft, contrary to sections 943.20(1)(a) and (3)(a) and 939.51(3)(a), stats.; and two counts of Criminal Damage to Property, contrary to sections 943.01(1) and 939.51(3)(a), stats. (R31:1-2)

On March 9, 2020, Mayotte filed a Motion to Dismiss with Prejudice Due to the Destruction of Apparently Exculpatory Evidence. (R43:1)

On August 28, 2020, the court held an evidentiary hearing. (R82:4)(A:103) Following testimony and argument the court denied Mayotte's motion. (R82:31-33)(A:130-132)

On November 18, 2020, Mayotte entered an Alford plea pursuant to a plea agreement to count one, Burglary of a Building, as set forth in the Information. (R83:9-10)(A:14-15) The court proceeded to sentencing on the same date. (R83:23)(A:28) The court then withheld sentence and placed Mayotte on probation for 30 months with 60 days conditional time consecutive to any other sentence. (R83:28)(A:33)

On March 15, 2022, Mayotte filed a postconviction motion requesting that he be allowed to withdraw his plea. (R101:1) As a basis for his request, Mayotte asserted that his trial

counsel informed him that he could appeal the decision of the court denying his motion to dismiss post judgment. (R101:2) The defendant entered his plea, despite his continued assertion of innocence with the belief and understanding that he could still appeal the trial court's decision denying his motion to dismiss. (R101:2-3) Mayotte unknowingly waived his ability to appeal the trial court's decision and is now seeking to withdraw his plea as his plea was only entered based on the understanding, through his trial counsel, that he could still appeal the denial of his motion to dismiss after entering his Alford plea. (R101:1-4)

On June 15, 2022, the court held an evidentiary hearing on Mayotte's motion to withdraw his alford plea. (R126:1)(A:36) At the hearing, Mayotte testified. (R126:1)(A:36) Mayotte testified that following the trial court's denial of his motion to dismiss, his trial counsel indicated that the court's decision could be appealed. (R126:15,17)(A:50,52) He stated that at the time that he entered his alford plea he was under the impression that he could appeal the trial court's decision denying his motion to dismiss. (R126:15)(A:50) Mayotte indicated that following the entry of his plea his trial counsel informed him that an appeal would be filed. (R126:15)(A:50) The hearing was

continued to allow testimony of trial counsel. (R126:24-26)(A:59-61)

On September 15, 2022, the court heard the testimony of Mayotte's trial counsel. (R128:4)(A:66) Trial counsel indicated that he filed the motion to dismiss as he believed there were grounds for the request. (R128:4)(A:66) He testified that the court denied the motion after a hearing. (R128:8)(A:70) Counsel stated that Mayotte ultimately entered an Alford plea. (R128:9)(A:71) At the hearing, trial counsel could not recall specific discussions had with Mayotte regarding appeal of the court's decision denying the motion, however, he made clear to the court that he filed the motion as a suppression motion with the understanding that the right to appeal would be preserved even with a plea. (R128:10)(A:72) Trial counsel indicated that this was a tactical decision to file as a suppression motion. (R128:10)(A:72) He further acknowledged that he discussed appealing the decision of the trial court on the motion to dismiss. (R128:17)(A:79) Trial counsel indicated that the plan was for Mayotte to appeal regardless of the fact that he entered his plea. (R128:19)(A:81) He further testified that he raised the motion to dismiss, in his mind, as a suppression issue to preserve the issue on appeal but then stated that based upon

his research he knew that Mayotte was waiving the right to appeal the motion by entering an Alford plea. (R128:19)(A:81) Counsel admitted that in filing the notice of intent to seek postconviction relief that he believed Mayotte wished to challenge the issue of the motion to dismiss, that is the spoilation of evidence. (R128:20)(A:82)

Trial counsel later clarified that he recalled having discussions with Mayotte regarding appealing the a separate motion to suppress screenshots on appeal and could not recall any discussions involving the motion to dismiss. (R128:20-21)(A:82-83)

After the close of evidence the trial court ruled that Mayotte's motion would be denied because there was no showing of prejudice that cannot be undone and there was no ineffective assistance of counsel. (R128:26)(A:88)The court concluded that, even if counsel improperly advised Mayotte as to his right to appeal following entry of plea, the court believed that Mayotte would not be succusful on appeal and so there was no prejudice. (R128:26-27)(A:88-89)

ARGUMENT

I. MAYOTTE SHOULD BE ALLOWED TO WITHDRAW HIS PLEA AS HIS PLEA WAS INVOULNTARY WHERE COUNSEL ADVISED HIM HE COULD APPEAL A MOTION TO DISMISS DESPITE ENTERING A PLEA AND WHERE COUNSEL WAS INEFFECTIVE FOR INFORMING MAYOTTE THAT HE COULD CHALLENGE THE MOTION TO DISMISS POSTJUDGMENT.

Withdrawal of a plea may occur either before sentencing, or after sentencing. When a defendant moves to withdraw a plea before sentencing, "a circuit court should 'freely allow a defendant to withdraw his plea prior to sentencing for any fair and just reason, unless the prosecution [would] be substantially prejudiced.'" State v. Jenkins, 2007 WI 96, ¶2, 303 Wis. 2d 157, 736 N.W.2d 24 (quoting State v.lig, 2000 WI 6, ¶28, 232 Wis. 2d 561, 605 N.W.2d 199); see id., ¶29 ("[T]he court has consistently articulated a liberal rule for plea withdrawal before sentencing . . . ."). However, this rule should not be confused "'with the rule for post-sentence withdrawal where the defendant must show the withdrawal is necessary to correct a manifest injustice.'" Id., ¶2 n.2 (citing Dudrey v. State, 74 Wis. 2d 480, 483, 247 N.W.2d 105 (1976) (citing State v. Reppin, 35 Wis. 2d 377, 151 N.W.2d 9 (1967))). Here, Mayotte seeks to withdraw his plea after sentencing.

When a defendant moves to withdraw a plea after sentencing, the defendant "carries the heavy burden of

establishing, by clear and convincing evidence, that the trial court should permit the defendant to withdraw the plea to correct a 'manifest injustice.'" State v. Thomas, 232 Wis. 2d 714, ¶16 (quoting State v. Washington, 176 Wis. 2d 205, 213, 500 N.W.2d 331 (Ct. App. 1993)) Here, the burden is on Mayotte to prove that plea withdrawal is warranted because "the state's interest in finality of convictions requires a high standard of proof to disturb that plea." Thomas, 232 Wis. 2d 714, ¶16 (quoting Washington, 176 Wis. 2d at 213) (internal quotation marks omitted) Therefore, in order to disturb the finality of an accepted plea, the defendant must show "'a serious flaw in the fundamental integrity of the plea.'" Id. (citing State v. Nawrocke, 193 Wis. 2d 373, 379, 534 N.W.2d 624 (Ct. App. 1995))

The manifest injustice test was first adopted by this court in Reppin, 35 Wis. 2d 377, 386, 390, 151 N.W.2d 9. In that case and others that have succeeded it, Wisconsin courts delineated when a "manifest injustice" occurs and established the situations in which a defendant is entitled to withdraw his plea. State v. Daley sets out the following list of circumstances where manifest injustice occurs:

1. ineffective assistance of counsel;

> 2. the defendant did not personally enter or ratify the plea;
>
> 3. the plea was involuntary;
>
> 4. the prosecutor failed to fulfill the plea agreement;
>
> 5. the defendant did not receive the concessions tentatively or fully concurred in by the court, and the defendant did not reaffirm the plea after being told that the court no longer concurred in the agreement; [or],
>
> 6. the court had agreed that the defendant could withdraw the plea if the court deviated from the plea agreement.

2006 WI App 81, ¶20 n.3, 292 Wis. 2d 517, 716 N.W.2d 146 (quoting State v. Krieger, 163 Wis. 2d 241, 251 n.6, 471 N.W.2d 599 (Ct. App. 1991)).

Before sentencing, a circuit court should freely allow a defendant to withdraw a plea if there is a "fair and just" reason and it will not substantially prejudice the State. State v. Bollig, 2000 WI 6, ¶28, 232 Wis. 2d 561, 605 N.W.2d 199. This question is left to the sound discretion of the circuit court, id.

After sentencing, a defendant is entitled to withdraw a plea only if necessary to correct a "manifest injustice." See State v. Taylor, 2013 WI 34, ¶48, 347 Wis. 2d 30, 829 N.W.2d 482. The defendant has the burden to prove a manifest injustice by clear and convincing evidence. Id., ¶¶24, 48.

This burden may be met if, for example, the defendant did not enter a knowing, intelligent, and voluntary plea or if the defendant received ineffective assistance of counsel. State v. Dillard, 2014 WI 123, ¶¶37-38, 84, 358 Wis. 2d 543, 859 N.W.2d 44.

Here, Mayotte seeks plea withdrawal on the grounds that his plea was involuntary where his plea was entered with the understanding that he could pursue the denial of his motion to dismiss on appeal and where trial counsel was ineffective where he informed Mayotte that an Alford plea would result in the waiver of his ability to challenge the filed motion to dismiss on appeal.

A. Mayotte's plea was involuntary where he entered his plea with the understanding that he could appeal the court's denial of his motion to dismiss.

A plea will be considered manifestly unjust if it was not entered knowinglym voluntarily, and intelligently. State v. Giebel, 198 Wis.2d 07, 541 N.W.2d 825 (Ct. App. 1995). In State v. Riekkoff, the Wisconsin Supreme Court held that a defendant was entitled to withdraw his plea because he had not entered a knowing and voluntary plea where trial counsel informed the defendant that he would be able to appeal the denial of his intent to offer expert testimony at trial

despite entering a plea. State v. Riekkoff, 112 Wis.2d 119, 332 N.W.2d 744 (1983).

Similar to Riekkoff, Mayotte was informed that he could challenge the court's denial of his motion to dismiss. Mayotte testified that he believed based upon communications with his trial counsel he would be able to challenge the same despite entering his plea. (R126:14-15,17)(A:49-50,52) Trial counsel could not specifically recall the conversations had with Mayotte regarding the ability to challenge the motion to dismiss but acknowledged that this was a major issue for Mayotte. Trial counsel testified he had conversations with Mayotte regarding appeal close to trial. (R128:26)(A:88) It is clear from the record that this was an issue for Mayotte because counsel negotiated resolution of the case by Alford plea. (R128:9)(A:71) This is something that trial counsel acknowledged does not always happen. (R128:9)(A:71) Regardless, trial counsel testified that he knew Mayotte intended to appeal, however, by entering his plea it was unlikely that he would be able to appeal any of the pretrial issues raised in his case. This is consistent with trial counsel's "tactical decision" to rause a challenge as a suppression issue to preserve appellate rights. (R128:10)(A:72) Counsel also acknowledged making effort to

preserve the issue on appeal. (R128:16)(A:78) Counsel further indicated that he may have discussed appealing certain pretrial rulings with Mayotte but that he may not have explained the issues well enough for Mayotte to understand. (R128:21-22)(A:83-84)

Thus, Mayotte entered his plea with the belief that he could appeal the motion to dismiss postjudgment. This is incorrect and as a result his pleas are neither knowing or voluntary. Because Mayotte's plea was not entered knowingly, voluntary, and intelligently he should be allowed to withdraw his plea as a matter of right. See State v. Dillard, 2014 WI 123, ¶74, 859 N.W.2d 44.

B. The court should grant Mayotte's request to withdraw his plea where he received ineffective assistance of counsel.

A defendant who wishes to withdraw a plea after sentencing must establish by clear and convincing evidence that plea withdrawal is necessary to correct a manifest injustice. State v. Fosnow, 2001 WI App 2, ¶7, 240 Wis. 2d 699, 624 N.W.2d 883. Ineffective assistance of counsel may constitute a manifest injustice. See State v. Cain, 2012 WI 68, ¶26, 342 Wis. 2d 1, 816 N.W.2d 177.

Claims of ineffective assistance of counsel are reviewed under the familiar two-prong test set forth in Strickland v.

Washington, 466 U.S. 668, 687 (1984). To prevail, Mayotte must prove that his trial counsel's performance was deficient and that the deficiency was prejudicial. See id. Mayotte must satisfy both prongs of the test to be afforded relief. See id.

To prove deficiency, a defendant must show that trial counsel "made errors so serious that counsel was not functioning as the 'counsel' guaranteed the defendant by the Sixth Amendment." Id. at 687. To prove prejudice, "[t]he defendant must show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 694. In the context of a guilty plea, the defendant must show "'that there is a reasonable probability that, but for the counsel's errors, he would not have pleaded guilty and would have insisted on going to trial.'" State v. Bentley, 201 Wis. 2d 303, 312, 548 N.W.2d 50 (1996) (citation omitted).

In this case, Mayotte entered an Alford plea. Mayotte has maintained his innocence throughout the case, including at the time that he entered his plea. Mayotte asserts that his trial counsel told him that he could challenge his motion to dismiss on appeal and this understanding continued to the time that Mayotte entered his plea. Inaccurate legal

information may render a plea unknowing and involuntary. See State v. Woods, 173 Wis. 2d 129, 140, 496 N.W.2d 144 (Ct. App. 1992).

Mayotte completed a plea questionnaire and waiver of rights form with his attorney but there is nothing contained within that form which demonstrates that Mayotte was aware that by entering his Alford plea he was waiving his right to challenge the court's ruling with regard to his motion to dismiss. (R69:1) Further, the court's colloquy did not discuss the fact that Mayotte was waiving the right to challenge the court's ruling on the filed motion by entering his plea. (R83:8-22)

As trial counsel was aware of Mayotte's desire to challenge the motion on appeal, counsel's representation was deficient with regard to informing Mayotte he could challenge the pretrial motion to dismiss after entry of his plea and waiver of appeal rights with regard to the motion.

There can be no question of the prejudice that Mayotte sustained by entering his plea without full understanding of the consequences regarding waiver of appeal rights as to the motion to dismiss. Mayotte waived one of his most fundamental constitutional rights, the right to a jury trial, only because he was under the impression that he could challenge the

court's ruling on the motion to dismiss on appeal. Had Mayotte been aware of the waiver, there exists a reasonable probability that he would have pursued his right to a trial and preserved his right to appeal the decision of the court. This is clear where trial counsel testified that he knew the issues that concerned Mayotte and that there was an intent to appeal prior to Mayotte entering his plea. As a result, Mayotte should be allowed to withdraw his plea.

Finally, the trial court relies heavily on the fact that it believes Mayotte would not have success on a challenge to the motion to dismiss. (R128:25-27)(A:87-89) This is not the issue to be decided. The issue is whether Mayotte's plea was voluntarily entered where he believed he could challenge the pretrial ruling in this case. Where trial counsel provided improper advice that resulted in Mayotte entering a plea, that plea is is involuntary, constituting a manifest injustice, and Mayotte's plea should be withdrawn as of right.

CONCLUSION

For the aforestated reasons, Mayotte respectfully request that the court grant his request to withdraw his plea in this matter.

Dated this 13th day of March, 2023.

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CERTIFICATION

I certify that this brief conforms to the rules contained in s. 809.19(8)(b), (bm) and (c) for a brief produced using the following font:

> Monospaced font: 10 characters per inch; double spaced; 1.5 inch margin on left side and 1 inch margins on the other 3 sides. The length of this brief is 21 pages.

I further 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 on 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 the confidentiality and with appropriate references to the record.

Dated this 13th day of March, 2023.

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