STATE OF WISCONSIN
COURT OF APPEALS
DISTRICT II

STATE OF WISCONSIN,

Plaintiff-Respondent,

v. Appeal No. 2023AP000874 – CR

Joan L. Stetzer,

Defendant-Appellant.

An Appeal From a Judgment of Conviction Entered by the Honorable Paul Bugenhagen, Jr., Branch 10, Waukesha County

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BRIEF OF PLAINTIFF-RESPONDENT

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STATEMENT OF THE ISSUES

Did the Court properly evaluate the coercion defense under the correct legal standard when determining that Stetzer was guilty of PAC, and coercion was disproved beyond a reasonable doubt?

The trial court answered yes.

POSITION ON ORAL ARGUMENT AND PUBLICATION

The Plaintiff-Respondent request neither oral argument or publication. The briefs in this matter can fully present and meet the issues on appeal and fully develop the theories and legal authorities on the issues. Publication is unnecessary as the issues presented relate solely to the application of existing law to the facts of the record.

STATEMENT AND FACTS OF THE CASE

Joan L. Stetzer was charged in a criminal complaint with Operating a Motor Vehicle While Intoxicated – 2nd Offense, contrary to Wisconsin Statutes Section 346.63(1)(a), and Disorderly Conduct-Domestic Abuse, contrary to Wis. Stat. §§ 947.01(1) and 968.075(1)(a), from an incident on May 24, 2017, in Waukesha County. (R. 1, Criminal Complaint.) An amended criminal complaint was then filed adding a charge of Operating with a Prohibited Alcohol Concentration – 2nd Offense, contrary to Wis. Stat. § 346.63(1)(b). (R. 13, Amended Criminal Complaint.) The State ultimately dismissed the Disorderly Conduct-Domestic Abuse count on November 29, 2018, at a jury status hearing.

In anticipation of using the coercion defense at trial, the defense filed a motion to admit other acts that detailed six alleged domestic abuse incidents between 2015 and 2016 that occurred between Stetzer, and her husband William Behlmer. (R. 68, Motion to Admit Other Acts Evidence.) In addition, the defense also filed a notice and report of a domestic violence expert, Dr. Darald Hanusa, to discuss various issues related to the alleged domestic violence Stetzer experienced with Behlmer. (R. 63, Midwest Domestic Violence Resource center report from Dr. Hanusa.) The State ultimately conceded that the expert and other acts could come in at trial for the OWI/PAC charges for the purpose of the coercion defense. (R. 69, State's Response to Defense Other Acts Motion.)

Stetzer waived her right to a jury trial, and requested a court trial. (R. 91, Waiver of Right to Trial by 12 Person Jury.) The matter then proceeded to court trial on February 11, 2022 (R. 125, Court Trial Transcript 2/11/22) and a continued court trial on September 9, 2022 (R. 124, Court Trial Transcript 9/9/22.). The State called two witnesses, Officer Kimberly Kuehl with Delafield Police Department, and Deputy Antonio Dominguez with the Waukesha County Sheriff's Department. (R. 124, Court Trial Transcript 9/9/22, p. 16-42; 43-78.)

Officer Kuehl testified that she was advised of a 911 hang up call in the Town of Delafield on May 24, 2017, and that a female left the residence of the Town of Delafield and was headed to a location in the North Lake and Merton area. (R. 125, Court Trial Transcript 2/11/22, p. 18.) Dispatch also stated that the female would be driving a black, Toyota Sequoia, and it was believed that she was impaired. (*Id.*) Officer Kuehl located the suspect vehicle and started following it. (*Id.* at 19.) At no point did the driver of that vehicle try to get Officer Kuehl's

attention. (*Id.*) Officer Kuehl observed the suspect vehicle weave within its lane and go over the solid white fog line, so proceeded to conduct a traffic stop on Highway 83 in the City of Delafield. (*Id.* at 20.)

Officer Kuehl made contact with the driver, who was identified as Stetzer, and Stetzer indicated that she had been thrown down the stairs by her husband and that he had scratched her face. (*Id.* at 22-23.) There were no observable injuries on Stetzer that Officer Kuehl could see. (*Id.* at 23.) Officer Kuehl asked Stetzer two separate times if she needed medical attention, and one time said maybe and the other time did not respond. (*Id.* at 23-24.) Officer Kuehl noticed the odor of intoxicants coming from Stetzer as she spoke, and Stetzer admitted to consuming alcohol. (*Id.* at 24.) Stetzer also stated that she was headed towards her lake home on North Lake that night. (*Id.*) Officer Kuehl also testified that Stetzer never directly stated that she feared for her life, and that there were various open businesses between Stetzer's home in the Town of Delafield and on the way to her lake house. (*Id.* at 28.) The State then played portions of Officer Kuehl's squad and body cameras that captured the stop and initial interaction with Stetzer. (R. 104, Exhibit 1—Officer Kuehl's squad; R. 105, Exhibit 2—Officer Kuehl's body cam.)

The OWI investigation was ultimately turned over to the Waukesha County Sheriff's Deputy Antonio Dominguez, who came to the scene of Officer Kuehl's traffic stop. (R. 125, Court Trial Transcript 2/11/22, p. 48.) Deputy Dominguez spoke with Stetzer, and she again admitted to drinking alcohol that night and taking a sleeping medication. (*Id.* at 49-50.) Deputy Dominguez had Stetzer perform standardized field sobriety tests, and then placed her under arrest for OWI. (*Id.* at 52-59.) Stetzer was asked to submit to an evidentiary chemical test of her blood, but refused, and Deputy Dominguez then secured a search warrant. (*Id.* at 60.) Stetzer was transported to Waukesha Memorial Hospital, where her blood was withdrawn and she was evaluated by medical personnel. (*Id.* at 60-61.) Deputy Dominguez also testified that he did not observe any injuries on Stetzer. (*Id.* at 61.) The State also played a portion of Deputy Dominguez's squad camera that captured his interaction with Stetzer that night. (R. 106, Exhibit 3—Dash video Deputy Dominguez.)

Deputy Dominguez also testified that Stetzer told him that she and Behlmer got into a verbal argument that night that turned physical, and that Behlmer pushed

her down the stairs. (R. 125, Court Trial Transcript 2/11/22, p. 69-70.) But, Deputy Dominguez also testified that at no point does he recall Stetzer telling him that she feared for her life or that Behlmer threatened to kill her. (*Id.* at 77.)

The State and defense also stipulated that at the time Stetzer drove her vehicle, her blood alcohol level was above 0.08.[1] (*Id.* at 78-80; R-App. 8 – R-App 9, Stipulation Regarding Blood Test Results and Retrograde Extrapolation.)

The defense presented evidence from three witnesses, a domestic violence expert Dr. Darald Hanusa (R. 125, Court Trial Transcript 2/11/22, pp. 84-191), Stetzer's husband Dr. William Behlmer (*Id.* at 191-232), and the defendant, Joan Stetzer (R. 124, Court Trial Transcript 9/9/22, pp. 4-144). Dr. Hanusa testified at length about domestic violence in general, and also about his evaluation of Stetzer in this case. Dr. Hanusa also diagnosed Stetzer with post-traumatic stress disorder and battered women's syndrome based on her reported history of domestic violence with her husband Behlmer. (R. 125, Court Trial Transcript 2/11/22, pp. 154-155.) Dr. Hanusa testified that Stetzer felt like she had to flee from the situation with Behlmer the night of the incident and get some place safe, but that did not necessarily mean the lake house. (*Id.* at 177.)

Stetzer's husband, Behlmer, also testified regarding what occurred the night of May 24, 2017. Behlmer testified that he and Stetzer had an argument about Behlmer's affairs that night, and he eventually left the house. (*Id.* at 194.) Behlmer also testified that he did not want to come back to the house where Stetzer was, but did so after his daughter called him and stated that Stetzer threw all of his clothes out in the rain. (*Id.*) Behlmer admitted to being upset with Stetzer because of that and confronted her. (*Id.* at 195.) Stetzer and Behlmer engaged in a verbal argument where both of them were yelling at swearing at each other. (*Id.* at 196-197.) Behlmer stated that he shoved and pushed Stetzer as he was trying to get by her since she was blocking his way, and she then fell down the stairs. (*Id.* at 199.) Behlmer admitted to saying he would "kick [Stetzer's] fucking ass." (*Id.* at 201.) Behlmer also testified that he accidentally called 911 and was taunting Stetzer. (*Id.*) At one point during the argument, Stetzer left and then came back inside, and

[1] It does not appear that the actual signed stipulation regarding the blood test results and retrograde extrapolation was made part of the official court record and index in this case, but the State has provided the unsigned copy presented to the Court in this appendix. The defense did not contest at the court trial or in this appeal that Stetzer was driving above the legal limit.

that is when Behlmer chased her with a pot. (*Id.* at 202.) Behlmer stated that Stetzer got into a vehicle and then she pulled away. (*Id.* at 204.) Behlmer admitted to being physically and verbally abusive with Stetzer previously. (*Id.* at 206-207.)

Behlmer also testified that there were five landline phones throughout the house, both of the children that were home had cellphones, and there was a lock on Stetzer's bedroom door. (*Id.* at 214-215.) Behlmer's intention was to stay at their lake house that night and only came back after he received a call from his daughter and numerous text messages from Stetzer. (*Id.* at 213.) Behlmer also testified that he did not intentionally push Stetzer down the stairs, and had no intention of killing her that night. (*Id.* at 216-217.) Behlmer stated that he and Stetzer were swinging and hitting each other that night. (*Id.* at 218.) Once Stetzer was in her vehicle, she left and he did not follow her. (*Id.* at 223.)

Stetzer then testified about various prior incidents of alleged domestic abuse at the hands of Behlmer throughout the years. Stetzer admitted to throwing Behlmer's clothes out the night of May 24, 2017, after getting into an argument with Behlmer. (R. 124, Court Trial Transcript 9/9/22, p. 54.) Behlmer had already left the house, and Stetzer assumed he was at their lake house. (*Id.*at 52.) Stetzer then texted Behlmer to come back and get his clothes after she threw them outside. (*Id.* at 55.) Stetzer heard Behlmer come home, and he was screaming and yelling. (*Id.* at 57.) Stetzer stated that during this time, Behlmer was saying that he was going to "take [her] out," which she thought meant Behlmer was going to kill her. (*Id.*at 58.) Stetzer stated that she was standing in front of the basement door, when Behlmer came up from the basement, and then Behlmer used his elbow to shove her down the stairs. (*Id.* at 59.) After she fell down the stairs, Stetzer stated that she was in pain, and then went back upstairs and started drinking "two large pour glasses of wine." (*Id.* at 60-61.)

Stetzer testified that Behlmer continued to yell at her, she then left the house, but then went back inside. (*Id.* at 64-65.) Stetzer testified that Behlmer was chasing her with a pot, and she ran out of the house again. (*Id.* at 65.) Stetzer was able to get into a vehicle, which had the keys in it, and lock herself inside. (*Id.* at 66.) Stetzer then left the residence in her vehicle. (*Id.*) Stetzer stated that she did not have any alternative but to go to her lake house. (*Id.* at 69.) Stetzer admitted to seeing the squad car before she was pulled over, but did not stop because when she called police previously on Behlmer, she had been arrested. (*Id.* at 72.)

Stetzer also testified that she was seen in the hospital and there were no broken bones. (*Id.* at 109.) Stetzer admitted that at no point during her interaction with police or medical providers did she tell them that she thought Behlmer was going to kill her. (*Id.* at 111.) Stetzer also admitted that she was under the influence of alcohol that night and was driving a vehicle. (*Id.* at 115.) Stetzer stated that even after being pushed down the stairs, she did not leave, but instead started drinking. (*Id.* at 122.) Stetzer admitted that her children were home, they had cell phones, and she could have gone upstairs away from Behlmer and call for help. (*Id.* at 123-124.) Once Stetzer got into her vehicle and locked the doors, Behlmer did not have any other weapons on him. (*Id.* at 127-128.) Further, the lake house that she wanted to go to that night was a place that Behlmer also had access to. (*Id.*at 129.)

After closing arguments by both parties, the Court found Stetzer guilty of OWI/PAC, and noted there was not much argument or issue that Stetzer did drive while under the influence and above a 0.08. (*Id.* at 169.) The Court focused the majority of its ruling on whether the coercion defense was disproved beyond a reasonable doubt. (*Id.* at 170.) The Court emphasized that even if he took all of Stetzer's statements as true, it did not mean that continuing to drive while under the influence was the only means to prevent death or great bodily harm. (*Id.*) The Court explained that once Stetzer left the driveway, she did not go to a police station or public area as it was what a person of ordinary intelligence and prudence would do. (*Id.* at 170-171.) The Court also found that driving all the way to the lake home would not have necessarily been the best idea once she left the house as the danger that she escaped from could have existed at the lake house as well. (*Id.* at 171.)

The Court allowed the defense to chose a conviction for OWI or PAC since she could not be sentenced on both, and the defense chose the PAC charge. (*Id.* at 175.) Stetzer was sentenced to five days jail on November 1, 2022, but that sentence was stayed pending appeal. (R. 132, Judgment of Conviction.)

Stetzer now argues to this Court that Judge Bugenhagen misapplied the law of coercion and did not hold the State to its burden to prove beyond a reasonable doubt that Stetzer was not acting lawfully under the defense of coercion.

ARGUMENT

I. The Trial Court properly evaluated the coercion defense under the correct legal standard when determining that Stetzer was guilty of PAC, and coercion was disproved beyond a reasonable doubt.

a. Relevant Law

"Whether the circuit court applied the correct legal standard . . . is a question of law that [appellate courts] review de novo." *State v. Magett*, 2014 WI 67, ¶ 27, 355 Wis. 2d 617, 850 N.W.2d 42 (quoting *State v. Kramer*, 2001 WI 132, ¶ 17, 248 Wis. 2d 1009, 637 N.W.2d 35) (internal quotations omitted). The proper interpretation of a statute is a question of law, reviewed de novo. *State v. Quintana*, 2008 WI 33, ¶ 11, 308 Wis. 2d 615, 748 N.W.2d 447.

Coercion is a defense defined in Wisconsin Statutes Section 939.46 as the following:

> A threat by a person other than the actor's coconspirator which causes the actor reasonably to believe that his or her act is the *only* means of preventing imminent *death or great bodily harm* to the actor or another and which causes him or her so to act is a defense to prosecution for any crime based on that act, except that if the prosecution is for first-degree intentional homicide, the degree of the crime is reduced to 2nd-degree intentional homicide.

(Emphasis added.)

"Coercion . . . is a defense limited to the most severe form of inducement. It requires an additional finding, under the objective-reasonable man test, with regard to the reasonableness of the actor's beliefs that he is threatened with immediate death or great bodily harm with no possible escape other than the commission of a criminal act." *State v. Amundson*, 69 Wis. 2d 554, 568, 230 N.W.2d 775 (1975) (reversed on other grounds). The Wisconsin Jury Instruction on Coercion further defines reasonable beliefs:

> [T]he defendant's beliefs must have reasonable. A belief may be reasonable even though mistaken. In determining whether the defendant's beliefs were reasonable, the standard is what a person of ordinary intelligence and prudence would have been believed in the defendant's position under the circumstances that exited at the time of the alleged offense. The reasonableness of the defendant's beliefs must be

> determined from the standpoint of the defendant at the time of his acts and not from the viewpoint of the jury now.

(Wisconsin Jury Instruction 790 – Coercion.) "Thus, there is both a subjective component to self-defense-that is, the defendant must actually believe he or she was preventing or terminating an unlawful interference; and an objective threshold competent-that is, the belief must be reasonable." *State v. Hampton*, 207 Wis. 2d 367, 380-81, 558 N.W.2d 884 (Ct. App. 1996).

The Court of Appeals in *State v. Hampton*, 207 Wis. 2d 367, 381-82, 558 N.W.2d 884 (Ct. App. 1996), discussed self-defense in relation to the standard for a defendant's beliefs being reasonable, which this Court can look to because the standard for "a reasonable belief" is the same in both the self-defense jury instruction under Wis. Stat. § 939.48, and the coercion jury instruction under Wis. Stat. § 939.46.[2] The Court explained that:

> The reasonableness of the belief is judged from the position of a person of ordinary intelligence and prudence in the same situation as the defendant, not of a person identical to the defendant placed in the same situation as the defendant. This is common sense because otherwise the privilege of self-defense would vary depending on the background or personal history of the person attempting to exercise the privilege. A person exposed to a lifetime of violence would have greater latitude to exercise the privilege of self-defense than a person raised in a life free from strife.

Hampton, 207 Wis. 2d at 381-382. The *Hampton* Court went on to further explain that public policy requires such a standard because:

> The privilege to act in self-defense does not exist in a vacuum. Sound public policy dictates that a person may exercise the privilege to act in self-defense only when they possess a reasonable belief that the action will prevent or terminate an unlawful interference with their person. If the law were otherwise, every defendant who claimed an actual belief in the need to use force would escape conviction [. . .].

Id. at 382 (quoting *State v. Camacho*, 176 Wis. 2d 860, 876, 501 N.W.2d 380 (1994)) (internal quotations omitted).

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[2] Wisconsin Jury Instruction 805 for Self-Defense states: "A belief may be reasonable even though mistaken. In determining whether the defendant's beliefs were reasonable, the standard is what a person of ordinary intelligence and prudence would have believed in the defendant's position under the circumstances that existed at the time of the alleged offense. The reasonableness of the defendant's beliefs must be determined from the standpoint of the defendant at the time of the defendant's acts and not from the viewpoint of the jury now."

A defendant must meet an initial showing of proof to support a coercion defense instruction. *State v. Keeran*, 2004 WI App 4, ¶ 6, 268 Wis. 2d 761, 674 N.W.2d 570. "A defendant is entitled to a coercion defense instruction if (1) the defense relates to a legal theory of a defense, as opposed to an interpretation of evidence; (2) the request is timely made; (3) the defense is not adequately covered by other instructions; and (4) the defense is supported by sufficient evidence." *Id.* (internal citations omitted). When looking at whether the defense is supported by sufficient evidence, a court looks at the evidence in a light viewed most favorably to the defendant. *Id.* Further, the evidence must support that the defendant's "*only* means of preventing *imminent* death or great bodily harm" was to commit the crime. *Id.* at ¶ 8 (emphasis added). Once coercion is raised, the State must "disprove[e] beyond a reasonable doubt an asserted coercion defense under sec. 939.46, Stats." *Moes v. State*, 91 Wis. 2d 756, 766, 284 N.W.2d 66 (1979).

For example, the Court of Appeals in *State v. Yenter*, 2019 WI App 1, ¶ 1, 2017AP2253 (cited for persuasive value only), found that Yenter did not provide sufficient facts to support the coercion defense for his charges of Operating while Intoxicated and Operating with a Prohibited Alcohol Concentration. In the case, Yenter stated that he went to a house party in a rural area, and planned to spend the night at that house. *Id.* at ¶ 8. While at the party, one of Yenter's friends was hit with a beer bottle and thrown down the stairs. *Id.* Yenter, his friend, and another person were chased out of the party by other people. *Id.* Yenter and his two friends got into the car, and Yenter started to drive away while other individuals were punching, kicking, and smashing the car with rocks. *Id.* Yenter stated that he and his friends feared for their lives and had no other option but to get in the car and drive away. *Id.* at ¶ 9. Yenter drove on the main roads and stated that he returned to his house, 16 miles away, because that was the only place he felt safe. *Id.* Yenter did not stop at various public places or farm houses that were in between the party and his house, because he thought if people were following them, he and his friends could still be hurt. *Id.* at ¶ 11. Yenter was eventually stopped by police about half a mile from his house, and arrested for OWI. *Id.*

The Circuit Court concluded, and the Court of Appeals agreed, that even if one believes all the facts alleged by Yenter, and even if initially, the only option was to drive away, "the offer of proof did not demonstrate that Yenter's only reasonable option *continued* to be that he must drive all the way to his house." *Id.*

at ¶ 13. The Court of Appeals further stated that Yenter did not state he was continuously followed, and did not explain why seeking safety in his house was safer than stopping at a public place. *Id.* at ¶ 15. The Court of Appeals concluded that the Circuit Court properly concluded, based on the offer of proof, that there was not sufficient evidence for a fact-finder to believe that Yenter had no other option but to drive drunk all the way to his house. *Id.* at ¶ 17.

b. Applying Relevant Law to Stetzer's Case

In this case, the Circuit Court properly considered the coercion defense, applied the facts as presented during the court trial, and found that the State disproved such defense beyond a reasonable doubt.

First, the Court found that the State had proven the elements to the offenses of OWI and PAC beyond a reasonable doubt.[3] (R. 124, Court Trial Transcript 9/9/22, p. 169-70.) Stetzer admitted that she drove and was under the influence that night, and there was a stipulation to the blood test results. (*Id.* at 169.)

The Court then moved to the central issue and decision of this case, which was the coercion defense. The Court correctly identified the burden of proof on the State for disproving the coercion defense:

> The parties agree that coercion is a defense in this matter. [Wisconsin Statutes Section] 939.46 allows even or case law notes that even in strict liability cases like this with driving while impaired it still does apply. *The State must prove by evidence which satisfies beyond a reasonable doubt that the defendant, Dr. Stetzer, was not acting lawfully under the defense of coercion*.

(*Id.* at 170.) (Emphasis added.) The Court then proceeded to explain his decision and why he believed the evidence showed that the State disproved the coercion defense beyond a reasonable doubt, and focused on timing and the circumstances of Stetzer's case. (*Id.*)

[3] The elements for OWI are: (1) the defendant drove a motor vehicle on the highway; (2) the defendant was under the influence of an intoxicant at the time the defendant drove a motor vehicle on the highway. The elements for PAC are: (1) the defendant drove a motor vehicle on a highway; and (2) the defendant had a prohibited alcohol concentration at the time the defendant drove a motor vehicle, which means 0.08 grams or more of alcohol in 100 milliliters of the person's blood. (Wisconsin Criminal Jury Instruction 2669—OWI/PAC of 0.08 Grams or More.)

The Court demonstrated through its reasoning that it applied the correct standard of law, and specifically, the reasonable person standard as emphasized in the jury instruction for coercion—that being that a defendant actually believed she was preventing an unlawful interference; and that it was reasonable from the position of a person of ordinary intelligence and prudence in the same situation as the defendant. The Court specifically stated that it can take everything that happened to Stetzer up to the time that she leaves her driveway in her vehicle as true, and thereby acknowledging the subjective component of the reasonable person standard. (*Id.*) But, once she left the driveway, the Court found that continuing to drive to the lake home instead of a police station or public area was not what a reasonable person of ordinary intelligence and prudence would do in Stetzer's position, thereby acknowledging the objective competent of the reasonable person standard. (*Id.* at 170-71.) The Court explained how it was not reasonable by further explaining that Stetzer passed a police officer and was in a city she knew. (*Id.* at 171.) Additionally, the Court stated:

> So, beyond a reasonable doubt she knows there's other means of safety around other than going to the lake house [. . .]. Again, looking at it reasonably the same danger that she would have been in the driveway could have existed over at that home—the other home on the lake.

(*Id.*)

While the Court stated in its decision that he "could find that [Stetzer] was acting reasonably in trying to go that lake," and "it may have been reasonable for [Stetzer] to think [. . .] this is a safe thing for me to do," it is clear that he is emphasizing the subjective portion of the reasonable person test in these instances, which is not where the analysis stops. (*Id.* at 171-72.) He also analyzed the objective portion of the reasonable person test, which is whether a person of ordinary intelligence and prudence in the defendant's position would believe the action was necessary to terminate an unlawful interference. In evaluating the objective portion of the test, the Court emphasized that continuing to drive all the way to the lake house was not the *only* means of preventing great bodily harm to herself. (*Id.* at 172.) The Court further stated that there had to be an end to the defense, and if taken to the extreme, a defendant could potentially keep driving to Tennessee if that is where she thinks it's safe. (*Id.* at 172-73.)

This same analysis of continuing to drive not being reasonable was evaluated in *Yenter* by the Court of Appeals. While the *Yenter* Court evaluated the case in terms of whether there was enough evidence to even get the coercion instruction, some of the reasoning for its decision is helpful in analyzing Stetzer's situation. While Stetzer testified that the lake home is where she felt safe, she did not explain why seeking safety in the lake house was safer than stopping at a public place, police station, or hospital, and only stated that she "didn't feel [she] had another alternative," and had "tunnel vision." (*Id.* at 69.)

The defense fails to acknowledge or support in their brief the objective portion of the reasonable person test, and only focuses on the subjective portion of the test and Stetzer's beliefs and history of domestic violence. But, to only focus on the subjective portion of the test does not fully acknowledge the legal standard for evaluating whether coercion was a legally valid defense in this case. As noted previously, coercion is "limited to the most severe form of inducement" and "requires an additional finding under the objective-reasonable man test." *Amundson*, 69 Wis. 2d at 568. It was clear from the Court's analysis that it applied the appropriate standard, and found that the evidence disproved coercion beyond a reasonable doubt.

CONCLUSION

For all the foregoing reasons, the State respectfully requests that this Court find that Judge Bugenhagen applied the correct legal standard and found Stetzer guilty of PAC, and that the State disproved coercion beyond a reasonable doubt.

Dated this 22nd day of January, 2024.

Respectfully,

Electronically Signed by Melissa J. Zilavy
Melissa J. Zilavy
Assistant District Attorney
Waukesha County
Attorney for Plaintiff-Respondent
State Bar No. 1097603

CERTIFICATION OF BRIEF AND APPENDIX

I hereby certify that this brief conforms to the rules contained in s. 809.19(8)(b), (bm), and (c), for a brief produced with proportional serif font. The length of this brief is 5,063 words.

I further certify that filed with this brief is an appendix that complies with s. 809.19(2)(a) and that contains: (1) a table of contents; (2) a copy of any unpublished opinion cited under s. 809.23(3)(a) or (b); and (3) a copy the stipulation regarding blood test results and retrograde extrapolation.

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.

Dated this 22nd day of January, 2024.

Electronically Signed by Melissa J. Zilavy
Melissa J. Zilavy
Assistant District Attorney
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