STATE OF WISCONSIN

IN SUPREME COURT

Case No. 2023AP001283

In the matter of the mental commitment of T.M.G.:
WINNEBAGO COUNTY,

Petitioner-Respondent,

v.

T.M.G.,

Respondent-Appellant-Petitioner.

PETITION FOR REVIEW

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ISSUES PRESENTED

1. Can a person be placed in "reasonable fear of violent behavior and serious physical harm" by non-violent threats?

The court recommitted Thomas[1] for twelve months under the second standard, finding "[w]hen one sends white powder to a federal courthouse, it is certainly a threat by today's standards." (R.30:25; App.20).

The court of appeals affirmed the circuit court's order. (Slip op. ¶¶13-14; App.10-11).

2. Is an implied threat to do serious physical harm sufficient to establish "a substantial probability of physical harm to other individuals" when the behavior threatened is impossible to carry out?

The court recommitted Thomas for twelve months under the second standard, finding "[w]hen one sends white powder to a federal courthouse, it is certainly a threat by today's standards." (R.30:25; App.20).

The court of appeals affirmed the circuit court's order. (Slip op. ¶¶13-14; App.10-11).

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[1] "Thomas" is the pseudonym designated by the court of appeals pursuant to Wis. Stat. § 809.81(8).

3. Are courts required to make specific factual findings regarding the sufficiency of the explanation required to be given before involuntary medication can be ordered?

The court found there was "testimony that [Thomas] is unable to understand the advantages, disadvantages, and alternatives for the particular medication or treatment [that] has been explained to him." (R.30:25; App.20).

The court of appeals stated "this might be a case where the trial court 'could have made more detailed and thorough factual findings,'" but affirmed the circuit court's order. (Slip op. ¶16; App.12).

4. Did the circuit court make sufficient factual findings to commit Thomas under the fifth standard and was the evidence presented sufficient under that standard?

The court committed Thomas for twelve months under the fifth standard.

The court of appeals declined to address these claims after finding Thomas dangerous under the second standard. (Slip op. ¶10 n.5; App.8).

CRITERIA FOR REVIEW

This case meets the criteria for review under Wis. Stat. §§ (Rule) 809.62(1r)(a), (c)2., & (e).

This Court interpreted Wis. Stat. § 51.20(1)(a)2.b. for the first time in *Marathon Cnty. v. D.K.*[2] However, this Court did not address the interplay between the requirement that individuals be "placed in reasonable fear of violent behavior and serious physical harm to them" and its ability to be proven by a recent "threat to do serious physical harm." *Id.* at ¶¶32-42; Wis. Stat. § 51.20(1)(a)2.b.

This case presents the Court with the opportunity to clarify the impact of the phrase "violent behavior" and whether it modifies the types of threats that are sufficient to demonstrate an individual has "reasonable fear of violent behavior and serious physical harm to them."

Also in *D.K.*, the Court noted that "evidence of a 'reasonable fear' is necessary but not automatically sufficient alone to conclude there is a 'substantial probability of physical harm.'" *D.K.*, 390 Wis. 2d at ¶41. As reaffirmed in *D.K.*, a substantial probability of physical harm to other individuals "requires a showing that it is much more likely than not that the individual will cause physical harm to other individuals." *Id.* at ¶42.

This case presents the Court with an opportunity to answer a novel question: whether, as a matter of law, there is a substantial probability of physical harm to other individuals when the behavior

[2] 2020 WI 8, ¶31, 390 Wis. 2d 50, 937 N.W.2d 901.

impliedly threatened is virtually impossible for the individual to execute.

Finally, this case allows the Court to clarify whether the language in *Christopher S.*[3] and *D.K.,* regarding the explanation that is required before an involuntary medication order can be entered, should be modified in light of the Court's decision in *Langlade Cnty. v. D.J.W.*[4,5]

The court of appeals, citing *Christopher S.*, affirmed the involuntary medication order because the doctor and court closely tracked/mirrored the statutory language governing involuntary medication orders.[6] (Slip op. ¶16; App.12). Then, citing *D.K.*, the court noted:

> While this might be a case where the trial court "could have made more detailed and thorough

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[3] *Winnebago Cnty. v. Christopher S.*, 2016 WI 1, 366 Wis. 2d 1, 878 N.W.2d 109.

[4] 2020 WI 41, 391 Wis. 2d 231, 942 N.W.2d 277.

[5] A similar issue is pending in *Winnebago Cnty. v. D.E.W.*, 2023AP215, which is scheduled for oral argument before the Court on March 20, 2024.

[6] *Christopher S.* states:

> Because [the doctor's] statements mirrored the statutory standard, they met the statutory standard. Thus, the circuit court did not err when it concluded that the County proved by clear and convincing evidence that Christopher was incompetent to refuse psychotropic medication and treatment.

366 Wis. 2d at ¶56.

> factual findings," eliminating the delay and resources expended on this appeal, the Record in this case was sufficient.

(Slip op. ¶16; App.12). *D.J.W.* was decided four years after *Christopher S.* and two months after *D.K.*[7]

D.J.W.'s place in the jurisprudence is a shift away from the sorts of admonishments in *D.K.* to an explicit requirement that circuit courts make more detailed records relating to dangerousness. This was done to provide clarity and protection to individuals and clarify issues on appeal. *D.J.W.*, 391 Wis. 2d at ¶¶42-44. Involuntary medication orders are equally, if not more, intrusive into an individual's liberty than civil commitments and similar protections are warranted. As such, this Court should address whether a similar mandate—requiring detailed factual findings—should be applied to involuntary medication orders.[8]

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[7] Notably, *D.J.W.*'s mandate was deemed necessary, in part, due to the passage the court of appeals quoted from. *D.J.W.*, 391 Wis. 2d at ¶40 n.6 ("Such a determination creates no clear requirement such as that contained in this opinion. . . . Rather than leaving circuit courts to discern a mandatory rule from the suggestive language contained in separate opinions in *D.K.*, our conclusion in the present case aims to provide clarity for circuit courts going forward.").

[8] Thomas does not envision a scenario where the Court would apply the *D.J.W.* mandate to only the medication explanation and not the other standards that must be met. As such, this petition generally refers to making factual findings supporting each of the components of involuntary medication orders.

STATEMENT OF THE CASE AND FACTS

Winnebago County sought to recommit Thomas and filed a Petition for Recommitment and for Involuntary Medication or Treatment. (R.3). The basis for the recommitment was found in a Report of Examination authored by Dr. Kevin Hansen[9] and signed by he and Dr. George Monese ("Dr. Monese")—both employed by the Wisconsin Resource Center ("WRC"). (R.3; 2).

The final hearing took place over two dates: November 22, 2022 and December 2, 2022. Both of the County's witnesses—Dr. Monese and Deputy U.S. Marshal Stacey Bahr ("Ms. Bahr")—testified on direct on the first date and were cross-examined on the second. *See* (R.29; 30). Thomas also testified on the second date.

Dr. Monese testified that he had worked with Thomas since 2016 and opined that Thomas has schizoaffective disorder. When asked whether that disorder impairs Thomas' judgment, behavior, and capacity to recognize reality, Dr. Monese said it did. (R.29:8, 11). Dr. Monese suggested that Thomas' behavior during the hearing was "much better than what he used to be in 2016." (R.30:11).

Dr. Monese believed Thomas was dangerous based on the "B and E" standards. (R.29:11).

[9] As indicated by the phrase "both this writer and Dr. Monese (Supervising Psychiatrist)." (R.8:2).

Dr. Monese claimed that Thomas told him that he "threw something, biological feces or urine" at an officer at Waupun Correctional Institution "because he believed that those officers were harassing him or were out to do some harm to him." (R.29:13). Dr. Monese claimed this was "recorded in the notes." (R.29:13). Thomas testified he did not "recall doing any such thing." (R.30:23).

Dr. Monese then testified vaguely about an incident where Thomas "sent some powder of some sort or something in a letter to the court." (R.29:15-16).

Ms. Bahr later testified that letters with a "white powdery substance" were received at the federal courthouse and came in envelopes with Thomas' information as the return address. (R.29:31-34). She also noted that "any sort of unknown substance . . . getting into the ventilation system or anything like that is a cause for concern." (R.29:37). There was no testimony regarding the written content of any accompanying letters. (R.29:32). No exhibits were presented related to the letters.

When asked by the County whether the "advantages, disadvantages, and alternatives to accepting medication" were explained to Thomas, Dr. Monese responded "Yes." (R.29:24). He did not describe who explained them or when or where this conversation took place.

When asked by the County whether Thomas was capable of "expressing an understanding specifically of the advantages, disadvantages, and alternatives

discussed with him," Dr. Monese responded "No, he is incapable." (R.29:25). He did not explain why he believed Thomas was incapable of expressing an understanding of the medication.

The County requested that Dr. Monese's report be admitted into evidence. (R.30:16). Thomas' attorney objected, stating that the report contained multiple layers of hearsay. (R.30:16). The court sustained the objection. (R.30:16).

The circuit court ultimately found that Thomas was suffering from a major mental illness—schizoaffective disorder—"a substantial disorder of his thought, his mood, and his perception." (R.30:25; App.20). Because Thomas was "getting better" the court found "he is certainly a proper subject" for treatment. (R.30:26; App.21).

The circuit court found that Thomas was dangerous "pursuant to the B and E standard." (R.30:25; App.20). Regarding the "B standard," the court found that there had "been evidence[] of substantial probability of physical harm to others." (R.30:25; App.20). "There has been recent homicidal or violent behavior. I think Dr. Monese testified to that as well." (R.30:25; App.20). The court then stated that "it is certainly a threat by today's standards" to mail an unknown white powder to a federal courthouse. (R.30:25; App.20).

Regarding the "E standard," the court noted that there was testimony that Thomas was unable to understand the advantages, disadvantages, and

alternatives to medication. (R.30:25; App.20). The court also stated that "He was unable to apply an understanding to his condition." (R.30:25; App.20). The court reasoned that because Thomas did not believe he was mentally ill and testified "people are trying to force things on him, trying to kill him" that he was unable to adequately apply an understanding of treatment to his condition. (R.30:25-26; App.20-21). The court found that Thomas' "dangerousness can be controlled by psychotropic medication" and ultimately committed him with an order for involuntary medication. (R.30:26; App.21; 17; App.15-16; 18; App.17).

On appeal, Thomas argued that the evidence was insufficient to commit him under the second and fifth standards. (Slip op. at ¶10; App.8). Thomas also contested whether the circuit court made findings related to the fifth standard that would satisfy the mandate set forth in *D.J.W.* Finally, Thomas questioned whether there were adequate factual findings and sufficient evidence regarding the explanation of the advantages and disadvantages of and alternatives to taking medication, as required by Wis. Stat. § 51.61(1)(g)3. (Slip op. at ¶15; App.11-12).

The court of appeals held "that evidence of Thomas's sending an envelope containing white powder to a federal courthouse is sufficient to satisfy the second standard's dangerousness requirement."

(Slip op. at ¶12; App.9-10).[10] Relying on *D.K.*, the court of appeals reasoned that because sending the letter would put others in reasonable fear that Thomas would cause physical harm, there was a substantial probability of physical harm to others under the second standard. (Slip op. at ¶¶13-14; App.10-11); Wis. Stat. 51.20(1)(a)2.b.

Finally, the court of appeals determined that Dr. Monese's testimony "was sufficient to support a finding of incompetency to refuse medication" because it closely tracked the statutory language. (Slip op. at ¶16; App.12). It also found the court's findings were adequate to support the involuntary medication order. (Slip op. at ¶16; App.12).

The court of appeals noted that, although "this might be a case where the trial court 'could have made more detailed and thorough factual findings,' eliminating the delay and resources expended on this appeal, the Record in this case was sufficient." (Slip op. at ¶16 (quoting *D.K.*, 390 Wis. 2d at ¶55); App.12).

Now, Thomas asks this Court to address whether threats to engage in violent behavior are necessary in order to show individuals are placed in "reasonable fear of violent behavior and serious physical harm."

Thomas also asks this Court to address whether an implied threat to do serious physical harm is

[10] As such, the court of appeals did not address Thomas' fifth standard claims. (Slip op. at ¶10 n.5; App.8).

sufficient to establish "a substantial probability of physical harm to other individuals" when the behavior threatened is impossible to carry out.

Thomas further asks this Court to address whether, in light of *D.J.W.*, a circuit court's recitation of the statutory language is a sufficient record when ordering the involuntary administration of medication.

Finally, Thomas requests this Court address the issues not addressed by the court of appeals—whether the court made sufficient factual findings to commit Thomas under the fifth standard and whether the evidence was sufficient to do the same.[11]

ARGUMENT IN SUPPORT OF GRANTING REVIEW

I. This Court should accept review to clarify what types of threats are required to establish a reasonable fear of violent behavior under the second standard.

An individual cannot be involuntarily committed (or recommitted) unless the petitioner proves by clear and convincing evidence that they are

[11] These issues do not meet the criteria for granting review. However, Thomas asks the court to take them up as a matter of judicial efficiency because both are legal questions appellate courts review *de novo* (to the extent the circuit court made factual findings, Thomas does not claim they were clearly erroneous).

mentally ill, a proper subject for treatment and dangerous. Wis. Stat. § 51.20(1)(a) & (13)(e). On appeal, Thomas did not dispute the first two findings. At issue was whether the County proved he is dangerous.

Wisconsin provides five different bases for finding someone dangerous. *See* Wis. Stat. § 51.20(1)(a)2.a-e. One standard at issue here is the second. It provides, in relevant part, that a person is "dangerous" if they:

> Evidence[] a substantial probability of physical harm to other individuals as manifested by evidence of recent homicidal or other violent behavior, or by evidence that others are placed in reasonable fear of violent behavior and serious physical harm to them, as evidenced by a recent overt act, attempt or threat to do serious physical harm.

Wis. Stat. § 51.20(1)(a)2.b.

Statutory language is interpreted in the context in which it is used and is read, where possible, to give reasonable effect to every word. *State ex rel. Kalal v. Circuit Court for Dane Cnty.*, 2004 WI 58, ¶46, 271 Wis. 2d 633, 681 N.W.2d 110. The Legislature's choice of words of "substantially probable" makes it clear that evidence establishing that a mentally ill person might harm someone is not enough. Rather, the probability must be "much more likely than not." *D.K.*, 390 Wis. 2d at ¶42.

As relevant here, the probability of harm to others can be demonstrated by evidence that "others are placed in reasonable fear of violent behavior **and** serious physical harm." Wis. Stat. § 51.20(1)(a)2.b. (emphasis added). This reasonable fear can itself be demonstrated by a "threat to do serious physical harm." Wis. Stat. § 51.20(1)(a)2.b.

It makes sense that a threat to do serious physical harm would place someone in reasonable fear of the same. However, a threat to do serious physical harm does not necessarily place someone in fear of violent behavior, and the statute requires both.[12]

"Violent behavior" is not defined in Chapter 51. The common definitions suggest the use of physical force.[13] The Supreme Court of the United States has stated the word "violent" "connotes a substantial degree of force." *Johnson v. U.S.*, 559 U.S. 133, 140-41 (2010) (discussing the use of the term "violent felony").

If the threats used to establish fear of violent behavior do not involve or suggest the possibility of violence, that language is effectively read out of the

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[12] For example, a threat to poison someone's morning coffee could be a threat to do serious physical harm, but does not contemplate violence.

[13] *Merriam Webster Online Dictionary* (2024), https://www.merriam-webster.com/dictionary/violent. "This court often uses dictionary definitions to ascertain the meaning of words and phrases not defined by statute." *D.K.*, 390 Wis. 2d at ¶83 (Dallet, J. dissenting).

statute. This was demonstrated by the court of appeals discussion dismissing Thomas' argument:

> It does not matter whether making the threat constituted a "violent crime" or "violent behavior" in and of itself; what is relevant is whether Thomas threatened "violent behavior and serious physical harm." *See D.K.*, 390 Wis. 2d 50, ¶¶47-49 (holding that a subject individual's "homicidal thoughts" and "threats to the police department"—which are not violent behavior per se—were sufficient to establish dangerousness under the second standard). Obviously, there was a threat inherent in sending an envelope containing an unidentified white powder; people would reasonably fear the substance to be a harmful agent, such as anthrax, that could cause physical harm and even death.

(Slip op. ¶14; App.10-11).

First, the court of appeals' reliance on *D.K.* was misplaced. There is no disputing that the threats at issue in that case—plans to strangle police officers and killing people who made fun of the subject individual—were explicitly violent. *D.K.*, 390 Wis. 2d at ¶8. As such, the two situations are not comparable.

Second, it is difficult to understand the court's logic. Why would a threat that does not involve violence and has not been labeled violent by the Legislature place individuals in reasonable fear of violent behavior?[14]

[14] As noted in Thomas' brief-in-chief, the behavior at issue could be considered criminal under Wis. Stat. § 947.017—

If the threats to do serious physical harm that inform the reasonable fear of others does not require that the threats involve or at least suggest a possibility of violent behavior, it effectively reads that requirement out of the statute. As such, the Court should take this opportunity to interpret this portion of Wis. Stat. § 51.20(1)(a)2.b. and decide this novel issue of what types of threats are sufficient to establish reasonable fear as a matter of law.

II. This Court should accept review to clarify whether threats that would be impossible to carry out create a substantial probability of physical harm to others.

As noted, a substantial probability of physical harm requires that it is much more likely than not that an individual will cause physical harm to others. *Supra* at 3. This can be demonstrated by evidence that others are placed in reasonable fear of violent behavior and serious physical harm. Wis. Stat. § 51.20(1)(a)2.b.

However, while the reasonable fear is necessary to prove substantial probability of physical harm to others, it is not always sufficient. *D.K.*, 390 Wis. 2d at ¶41.

Threats to release chemical, biological, or radioactive substances—yet is not considered violent by the Legislature. App. Br. at 19. Meanwhile, bomb scares (Wis. Stat. § 947.015)—which threaten the use of force (through explosive means)—are considered both "violent offenses" and "violent crimes." Wis. Stat. § 301.048(2)(bm)1; Wis. Stat. § 969.001(3)(a).

Where an individual's liberty is at stake, speculation on dangerousness is not enough. *See Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) (stating the due process clause "bars certain arbitrary, wrongful, government actions" and holding that the government must prove dangerousness by clear and convincing evidence).

The court of appeals was unconvinced by Thomas' argument that the "evidences a substantial probability of physical harm to others" requirement of Wis. Stat. § 51.20(1)(a)2.b. requires a meaningful probability that Thomas was capable of causing the type of physical harm threatened. (Slip op. at ¶13; App.10). According to the court of appeals,

> the required showing is that it is much more likely than not that Thomas will cause physical harm to others (which can be shown with evidence that others were placed in reasonable fear)—not that he did harm others or that recent acts showing his propensity to hurt others were likely to succeed.

(Slip op. ¶13; App.10).

Yet again, it is difficult to understand the court's logic. If Thomas' ability to acquire a harmful substance (such as anthrax) is virtually impossible while in prison, how is it much more likely than not that he will cause physical harm to others?[15] The "substantial probability" standard suggests there has to be

[15] This further highlights the issue with divorcing the "violent behavior" language from the threats underlying the "reasonable fear" a person is placed in.

consideration of the ability of an individual to carry out the type of harm threatened.

In a case where an individual makes a threat that he could not possibly act on, there is no potential danger. While the recipient of the threat may be placed in reasonable fear or take certain precautions if they do not know about the impossibility, that does not make it much more likely than not the individual would cause physical harm to others.

There was no evidence presented regarding any sort of motive (*e.g.* a threatening letter); as such, all anyone can do is speculate as to the purpose of the white powder. It may be an implied threat, but if the act threatened is impossible to carry out, there is no probability of anyone being physically harmed.

In *D.K.* the Court noted that threats to do serious physical harm may not always be sufficient to establish a substantial probability of physical harm. *D.K.*, 390 Wis. 2d at ¶41. This case provides the Court an opportunity to analyze implied and impossible to carry out threats and decide whether individuals who make these types of threats pose a danger to others.

III. The Court should accept review to determine what factual findings regarding medication explanations are required.

In affirming the order subjecting Thomas to involuntary medication, the court of appeals relied on language from *Christopher S.* and *D.K.* to indicate that as long as doctors and circuit courts use the language

in the statute, the orders are lawful and the most that can be done with a lacking record is an admonishment to do better. (Slip op. ¶16; App.12).

The Court's holding in *D.J.W.* was made in direct response to the passage in *D.K.* that the court of appeals cited here, and the language in *Christopher S.* is being interpreted as a magic words requirement. All of this suggests the Court should reexamine *Christopher S.* and impose a mandate similar to *D.J.W.*'s involuntary medication orders.

One reason the Court mandated circuit courts to "make specific factual findings with reference to the subdivision paragraph of § 51.20(1)(a)2." is because "[w]ith such an important liberty interest at stake, the accompanying protections should mirror the serious nature of the proceeding." *Id.* at ¶43. This applies equally to involuntary medication orders.

Under the Due Process Clause, Thomas has a "'significant liberty interest' in refusing involuntary medication." *State v. Fitzgerald*, 2019 WI 69, ¶13, 387 Wis. 2d 384, 929 N.W.2d 165 (quoting *Washington v. Harper*, 494 U.S. 210, 221 (1990)). The forcible administration of psychotropic medication is arguably a greater intrusion into personal liberty than the commitment itself. *See State ex rel. Jones v. Gerhardstein,* 141 Wis. 2d 710, 736-39, 416 N.W.2d 883 (noting that being dangerous and under commitment is not sufficient to deprive individuals of their right to refuse medication). As such, it makes

sense to require similar factual findings when such orders are imposed.[16]

Further, requiring factual findings by the circuit court would have forced the County to elicit detailed testimony from Dr. Monese and clarified issues on appeal regarding the sufficiency of the explanation. (Slip op. ¶16; App.12).

Finally, prior to *D.J.W.*, *D.K.*, and *Christopher S.*, this Court decided *Outagamie Cnty. v. Melanie L.*[17] and stated that the onus is on doctors to establish that sufficient explanations were given. *Id.* at ¶67 ("The explanation should be timely, and, ideally, it should be periodically repeated and reinforced. Medical professionals and other professionals should document the timing and frequency of their explanations so that, if necessary, they have documentary evidence to help establish this element in court.").[18]

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[16] Furthermore, the mandate Thomas believes should be implemented already exists when a County seeks commitment based on the fifth standard, which includes the same medication explanation requirement and is subject to *D.J.W. Compare* Wis. Stat. § 51.20(1)(a)2.e. *with* Wis. Stat. § 51.61(1)(g)4.

[17] 2013 WI 67, 349 Wis. 2d 148, 833 N.W.2d 607.

[18] As noted in the Petition for Review in *D.E.W.*, there are conflicting court of appeals decisions regarding what specificity of testimony is required. *Compare Milwaukee County v. D.H.*, unpublished slip op., No. 2022AP1402, Mar. 7, 2023; (App.23-38), *with Marquette County v. T.F.W.*, unpublished slip op., No. 2015AP2603-FT, Mar. 24, 2016; (App.39-46).

This jurisprudence suggests that doctors need to provide detailed testimony regarding their attempts to provide medication explanations. Conclusory statements that an explanation was provided at an unknown time are unhelpful to assist a fact finder (and appellate courts) in evaluating the sufficiency of the explanation. *See generally State v. Allen*, 2004 WI 106, ¶23, 274 Wis. 2d 568, 682 N.W.2d 433 (suggesting that in order to demonstrate sufficient material facts, postconviction motions should allege "who, what, when, where, why, and how").

Requiring circuit courts to make explicit factual findings regarding these explanations serves the interests espoused by the Court in *D.J.W.*[19] and fosters more complete records by incentivizing counties to elicit detailed testimony from doctors.

Given the Court's decisions in *Melanie L.* and *D.J.W.* and the lack of consensus in the court of appeals regarding the level of specificity needed, this court should clarify the issue.

[19] Moreover, it makes sense to apply the *D.J.W.* mandate to involuntary medication orders generally, given the two different bases for finding an individual incompetent to refuse medications. *D.J.W.*, 391 Wis. 2d at ¶¶37-40.

CONCLUSION

For the reasons stated above, this Court should accept review of the court of appeals decision in this case.

Dated this 23rd day of February, 2024.

Respectfully submitted,

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CERTIFICATION AS TO FORM/LENGTH

I hereby certify that this brief conforms to the rules contained in S. 809.19(8)(b), (bm), and (c) for a brief. The length of this brief is 4,307 words.

CERTIFICATION AS TO APPENDIX

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 rules 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 or 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.

Dated this 23rd day of February, 2024.

Signed:

Electronically signed by
Lucas Swank
LUCAS SWANK
Assistant State Public Defender