STATE OF WISCONSIN

IN SUPREME COURT

Case No. 2024AP1315

In the matter of the mental commitment of M.D.S., Jr.:

WAUKESHA COUNTY,

Petitioner-Respondent,

v.

M.D.S., JR.,

Respondent-Appellant-Petitioner.

PETITION FOR REVIEW

PAMELA MOORSHEAD
Assistant State Public Defender
State Bar No. 1017490

Office of the State Public Defender
735 N. Water Street - Suite 912
Milwaukee, WI 53202-4116
(414) 227-4805
moorsheadp@opd.wi.gov

Attorney for Respondent-Appellant-Petitioner

TABLE OF CONTENTS

ISSUE PRESENTED

1. Was the evidence sufficient to establish Martin's[1] dangerousness?

The circuit court ruled that the evidence was sufficient. The Court of Appeals affirmed.

CRITERIA FOR REVIEW

Review by this Court is appropriate since this case presents a real and significant question of federal constitutional law. Wis. Stat. §809.62(1r)(a). The civil commitment of a person diagnosed with a mental illness can be justified as a government exercise of either its *parens patriae* power to care for citizens unable to care for themselves or its police power to prevent harm to the community. *Addington v. Texas*, 441 U.S. 418, 426 (1979). While both are legitimate government interests, neither is boundless. An involuntary mental health commitment is "a significant deprivation of liberty." *Id.; Vitek v. Jones*, 445 U.S. 480, 491–92 (1980).Martin's commitment deprives him of the most basic and fundamental freedom "to go unimpeded about [his] affairs" and to make decisions regarding his health. *Lessard v. Schmidt*, 349 F. Supp. 1078, 1084 (E.D. Wis. 1972), *vacated and remanded on*

[1] In its opinion, the court of appeals referred to M.D.S., Jr., by the pseudonym "Martin Smith." This petition will use the same pseudonym.

other grounds, 421 U.S. 957, 95 S.Ct. 1943, 44 L.Ed.2d 445 (1975*), reinstated*, 413 F. Supp. 1318 (E.D. Wis. 1976). Thus, the Fourteenth Amendment to the United States Constitution prohibits the government from involuntarily confining a person with a mental illness unless it can prove that person is currently dangerous. *O'Connor v. Donaldson*, 422 U.S. 563, 576, (1975); *Portage Cnty. v. J.W.K.*, 2019 WI 54, ¶24, 386 Wis. 2d 672, 927 N.W.2d 509.

Here, Martin was pestering a person. The circuit court concluded that Martin was dangerous primarily because he, while unarmed, made his hand into the shape of a gun and pulled a fake trigger at the person while blustering about a "showdown" that would occur when police arrived, although mere minutes later, he was taken into custody without incident. As discussed below, a finding that Martin was "much more likely than not" to harm another individual was a prerequisite to a finding that he was dangerous.[2] However, the testifying psychiatrist declined to say that Martin was much more likely than not to harm another individual, and neither the circuit court nor the court of appeals made that finding. In fact, both courts ignored the requirement altogether.

This court should grant review to vindicate Martin's basic and fundamental constitutional rights and to impress upon the lower courts the importance

[2]*Marathon Cty v. D.K.*, 2020 WI 8, ¶72, 390 Wis. 2d 50, 937 N.W.2d 90.

of carefully weighing the facts and faithfully applying the burden of proof in cases where fundamental constitutional freedoms are at stake. A high degree of care is particularly important in civil mental health commitment cases, given that as recently as 2015, it was found that Wisconsin involuntarily committed its citizens diagnosed with mental illnesses at a higher rate than any other state.[3] In a borderline case, an assessment of the facts which is mechanical or imprecise can result in a curtailment of fundamental liberty that is unjustified. That is what occurred here.

STATEMENT OF FACTS

New Berlin police officers took Martin into custody on June 14, 2023 under an emergency detention pursuant to Wis. Stat. §51.15. A hearing was held on June 19, 2023 at which the court found probable cause to believe that Martin was a danger to himself or others and scheduled a final commitment hearing. (8).

At the hearing, the parties stipulated that Martin had a mental illness and was a proper subject for treatment. (47: 3; App. 16). Martin contested the question of dangerousness. Regarding involuntary

[3] Substance Abuse & Mental Health Servs. Admin., *Civil Commitment and the Mental Health Care Continuum: Historical Trends and Principles for Law and Practice* 12 (2019).

medication, Martin asserted that if a commitment was ordered, he would not object to an involuntary medication order. (47: 35; App. 48).

Hearing Testimony

Alec Weitzer

Mr. Weitzer testified about the events that led to the detention. He said that he was at his father's apartment moving furniture in when Martin approached him, not saying anything. (47: 10; App. 23). Weitzer was with his brother. (47: 13; App. 26). Weitzer said it did not seem like Martin was "fully coherent." (47: 10; App. 23). He described Martin just looking at him and his brother. Weitzer believed Martin might be a neighbor who wanted to say "hi" or see what they were doing. (47: 10-11; App. 23-24).

Weitzer said Martin came closer and still was not saying anything. (47: 11; App. 24). He described Martin getting in their "personal space" and "bugging" and "bothering" them. (47: 11; App. 24). Wetizer described Martin following them around in the parking lot and trying to follow them into the house. Weitzer said he told Martin to "back off." (47: 11; App. 24). Weitzer said Martin was staying in their personal space trying to put his hands or arms around them, and growling or making weird noises. (47: 11; App. 24). Weitzer believed something was wrong with M.D.S.. (47: 11; App. 24).

Weitzer then described the following behavior:

> And then, you know, at that point, I said, hey, back up. Enough is enough here. And then he was still kind of growling, saying weird stuff, running around, pulling on his shirt. And then he kind of got close to us again. He kind of got into my space to the point where he was, like -- he kind of looked like he was going to charge at me, but I was, like, I don't think he was going to but. He put his hands his on me a little bit, kind of like a gentle, I don't know. It wasn't necessarily gentle, but he was just in my space.

(47: 11-12; App. 24-25). Weitzer testified that he pushed Martin enough to regain his personal space and called 911. (47: 12; App. 25).

Weitzer said Martin never entered the apartment, but he tried to, and Weitzer believed that he would have if Weitzer had not blocked him and shut the door. (47: 13; App 26). Weitzer said Martin was a "big guy" and that he, Weitzer, was also a big guy. Weitzer said "I felt comfortable enough handling my own." (47: 13; App. 26).

Weitzer said he called police because Martin started making "gun signs" with his hands. (47: 13; App. 26). However, because Martin was wearing a sweatshirt and sweatpants, Weitzer could tell he was not carrying a gun. (47: 14; App. 27). Weitzer explained, "I can tell something obviously was not right with this guy so I was concerned." (47: 13; App. 26). The whole event lasted 15-20 minutes. (47: 13;

App. 26). Martin did not cause Weitzer any physical pain. (47: 17; App. 30).

Weitzer testified that while he was on the phone to police, Martin was making biblical references and saying there was going to be a "showdown." (47: 14; App. 27). After he called law enforcement Weitzer followed Martin to make sure he did not go inside to retrieve a weapon, since Martin was making a gun sign with his hand and saying there would be a "showdown" with police as well as making biblical references and speaking of "demise." (47: 17; App 20).

Weitzer said that Martin was acting like he was "not mentally stable" and "like his actions could spark off at any moment." 47: 16; App. 29).

There was no evidence presented that Martin resisted or acted out toward police in any way. No officer involved in taking M.D.S. into custody testified. Weitzer did observe the officers taking M.D.S. into custody. Regarding this, he said only that he believed they took him away in an ambulance. (47: 15; App. 28).

Officer Lisette Ceballos

Officer Ceballos first saw Martin at Waukesha Memorial hospital following his detention. (47: 6; App. 19). She described Martin speaking to "biblical individuals" who were not present in the room, at times yelling and screaming. (47: 6; App. 19). The officer described Martin having clenched fists and

making threats to the nonexistent individuals. (47: 7; App. 20). At one point, Martin threatened to harm one of the imaginary people with a rifle. (47: 7; App. 20). Martin was restrained in a bed at the time, first with handcuffs and then with soft restraints. (47: 7-8; App. 20-21).

According to the officer, Martin did not say anything to any real person who was actually present or "get physical" with anyone. (47: 8; App. 21). The officer testified that she believed Martin was having a mental health crisis. (476: 8; App. 21).

Dr. Darryl Kabins

Dr. Kabins, the medical director at the Waukesha County Mental Health Center, testified that he was the treatment physician for Martin since his detention. (47: 21; App. 34). Martin was already being treated on an outpatient basis by a psychiatrist associated with the Veterans Administration. (47: 21-22; App. 34-35). When asked whether he believed Martin continued to require in-patient care, Dr. Kabins said that Martin continued to have disorganized thoughts and delusional beliefs that led him to continue to state that he planned to monitor the police who he believed were harassing him. (47: 22; App. 35). Dr. Kabins said Martin was not able to formulate a goal or show awareness of how his behavior in response to his paranoid delusions "put himself in altercations with others." (47: 22; App. 35). Dr. Kabins said Martin chose not to disclose information about his access to firearms and that he

stated he wanted to maintain his concealed carry permit but acknowledged that he may have to give that up. (47: 22-23; App. 35-36).

Dr. Kabins testified that Martin had a diagnosis of schizophrenia and said that he had impaired judgment. (47: 23; App. 36). Dr. Kabins said Martin had thought disorganization and delusions resulting from his schizophrenia. The delusions were focused on perceived harassment by police, including a "red team." (47: 24; App. 37). Dr. Kabins said Martin was unable to articulate what goal he intended to accomplish by monitoring and recording police to build up evidence against them. (47: 24; App. 37). Dr. Kabins said Martin felt he needed to continue these practices and that he was reluctant to stay away from police. (47: 24; App. 37).

Dr. Kabins said that Martin also had delusions surrounding a battle among unknown religious figures. He said it was unclear whether Martin was hearing voices or talking to himself. (47: 24; App. 37). Dr. Kabins testified that Martin had not put together a plan to manage his paranoia and continued to state that he would continue behaviors that led to his detainment. (47: 24; App. 37).

When asked whether it was much more likely than not that physical injury or impairment to himself or others would occur, Dr. Kabins did not ratify that. (47: 25; App. 38). Instead, he said he believed Martin was "at definitely increased risk of harm to self or others." (47: 25; App. 38).

Dr. Kabins said that Martin had started to show improvements, but that side-effects Martin was experiencing with his medication might make a medication change necessary, which would require a two or three-week hospitalization. (47: 25-26; App. 38-39). He said M.D.S.'s outpatient psychiatrist reported that Martin had been noncompliant with medication over the past year. Therefore, although Martin was compliant during his detention, Dr. Kabins believed that Martin was a high risk for noncompliance due to side effects. (47: 26; App. 39).

Dr. Kabins testified that while Martin said he understood that he needed to be on medication, he had been unable to clearly describe the symptoms of his schizophrenia that made the medications necessary. (47: 27; App. 40). According to Dr. Kabins, although Martin acknowledged his schizophrenia, he did not acknowledge that the "struggles" he was having with police were part of that. (47: 27; App. 40).

Dr. Kabins viewed several videos on a YouTube channel created by M.D.S., in which Martin interacted with or confronted police. He said the videos showed proof of M.D.S.'s paranoid beliefs regarding police. (47: 28; App. 41).

Dr. Kabins said that early in his hospitalization, Martin banged on the walls and tried to leave, at one point exiting through the door before being brought back in. (47: 29; App. 42). Although Martin had made comments about not trusting staff at the mental health center, Dr. Kabins

acknowledged that he had not been aggressive toward staff. (47: 29; App. 42).

Ruling

The circuit court concluded that the County had met its burden to show that Martin was dangerous. The court opined that M.D.S.'s "delusionary statements" alone did not establish dangerousness. (47: 35; App. 48). However, the court went on to explain its ruling as follows:

> But when if you look at the gun signals and the references, and I took Mr. Weitzer's testimony a little bit differently than how Attorney Ostrowski indicated that after [M.D.S.] tried to enter the apartment that apparently did not belong to him, and Mr. Weitzer was concerned about safety, it was at that point that [M.D.S.] started making gun signs with his hands and pointing the gun signs at Mr. Weitzer, making some biblical references and then saying "it's going to be a showdown."
>
> So putting that all into context, I have no question whatsoever that that is a threat to do harm to others and it meets the standard under 51.20(1)(a)2.b of others being placed in reasonable fear of violent behavior or serious physical harm as evidenced by a recent overt acts, attempts or threat to do such harm to other. And I guess I'll make it crystal clear on the record, that's what this court is relying upon to meet the dangerousness standard.

(47: 35-36; App. 48-49).

The court ordered commitment of Martin and involuntary medication for six months. (21). Martin filed a notice of intent to pursue postdisposition relief. (31). Undersigned counsel was appointed to represent him. The commitment expired and was not extended. Martin appealed the commitment order.

The court of appeals affirmed. The court ruled that the County established that Martin "evidenced a substantial probability of physical harm to other[s]" and thus was dangerous under Wis. Stat. § 51.20(1)(a)2.b. because Weitzer had a reasonable fear of violent behavior and serious physical harm by Martin. (Slip Op. ¶23; App. 12).

ARGUMENT

I. The evidence is insufficient to sustain a finding that Martin was dangerous to himself or others.

A. Standard of review and legal standard.

This Court reviews a circuit court's findings of fact for clear error, but independently determines whether the facts satisfy the legal standard. *Waukesha Cty. v. J.W.J.*, 2017 WI 57, ¶15, 375 Wis. 2d 542, 895 N.W.2d 783. Involuntary commitments are civil proceedings; however, given the essential liberty interests at stake, due process requires the petitioner to prove its case by clear and convincing evidence. *Addington v. Texas*, 441 U.S. 418, 433 (1979); Wis. Stat. § 51.20(13)(e).

To obtain an involuntary commitment, the petitioner must prove that the individual is mentally ill, a proper subject for treatment, and dangerous to self or others. *Portage Cty v. J.W.K.*, 2019 WI 54, ¶17-18, 386 Wis. 2d 672, 927 N.W.2d 509. If the petitioner meets its burden of proof, the court may enter an original order committing the individual for up to six months. Wis. Stat. § 51.20(13)(g)1.

B. The County failed to prove that Martin was dangerous to himself or others.

Here, Martin stipulated that he had a treatable mental illness. (47: 3; App. 16). However, he asserted he was not dangerous.

To obtain an involuntary commitment, the County was required to supply clear and convincing evidence that Martin was dangerous, as measured by one or more of the five standards of dangerousness set forth in Wis. Stat. § 51.20(1)(a)2.a.-e. "Each requires the County to identify recent acts or omissions demonstrating that the individual is a danger to himself or to others." *J.W.K.*, 386 Wis. 2d 672, ¶17. All of the standards use the term "substantial probability." This term is defined as "much more likely than not." *Marathon Cty v. D.K.*, 2020 WI 8, ¶72, 390 Wis. 2d 50, 937 N.W.2d 90. Although certainty is not required, "mere possibility and conjecture" are insufficient. *Id*. at ¶52.

The circuit court relied on Wis. Stat. §51.20(1)(a)2.b.—the "second standard"—as the basis for the commitment. (47: 36; App. 49). Under that

standard, the County was required to show that Martin was dangerous because he: "evidence[d] 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. . . ."

Here, Martin was acting strangely and bothering Weitzer and his brother. He said strange things, causing Weitzer to be "concerned" that something was "not right" with Martin (47: 13; App. 26). Martin's behavior was certainly odd and bothersome and raised concerns about his mental health. However, the evidence presented was not sufficient to prove by clear and convincing evidence that Martin was dangerous.

The County was required to show that there was a substantial probability of harm to others that was "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." There was no evidence presented of homicidal or other violent behavior by Martin at any time. Therefore, the commitment could be sustained only if Martin placed Weitzer "in reasonable fear of violent behavior and serious physical harm to [him],

as evidenced by a recent overt act, attempt or threat to do serious physical harm."

The circuit court believed that M.D.S.'s act of pointing an imaginary gun at Weitzer while talking about a "showdown" was a legitimate threat to do him serious physical harm. (47: 36; App. 49). That conclusion is questionable, given the fact that Martin was unarmed, and there was no evidence presented that he ever threatened to retrieve a gun or even claimed to own one during the encounter. But even if making one's hand into the shape of a gun and pointing it could be considered a legitimate threat, it would not have placed a person in reasonable fear of violent behavior and serious physical harm under the circumstances presented here.

It is important to note that, while Weitzer said he was "concerned" about M.D.S.'s mental state, he did not testify that he was ever afraid during the encounter. (47: 13; App. 26). In fact, his testimony suggested he was not. For example, he said he could tell that Martin was not armed. (47: 14; App. 27). He said he did not actually think Martin was going to "charge" him. (47: 11-12; App. 24-25). After calling police, instead of retreating from M.D.S., Weitzer followed him. (47: 17; App. 30). M.D.S.'s actions, while troubling, would not have given rise to a reasonable fear of violent behavior and serious physical harm.

Moreover, even if Martin had placed Weitzer in reasonable fear of violence and serious physical

harm, the evidence would still be insufficient to sustain the commitment because the County ultimately failed to prove that it was much more likely than not that Martin would actually harm others. "[E]vidence of 'reasonable fear' is necessary but not automatically sufficient alone to conclude there is a 'substantial probability of physical harm.'" Instead the County must also prove "that it is much more likely than not that the individual will cause physical harm to other individuals." *Marathon Cty v. D.K.*, 2020 WI 8, ¶42, 390 Wis. 2d 50, 937 N.W.2d 901.

When M.D.S.'s treating psychiatrist was specifically asked whether it was much more likely than not that Martin would cause physical harm to others, he stopped short of endorsing that. Instead, Dr. Kabins said that Martin was "at definitely increased risk of harm to self or others." (47: 25; App. 38). To say there is an increased risk of harm is not the same as saying harm is much more likely than not.

Dr. Kabins rightly declined to characterize harm to others by Martin as much more likely than not, as that characterization is not warranted by the evidence. Dr. Kabins did not even explain how M.D.S.'s delusions led to any heightened risk of harm to others. Dr. Kabins said that Martin was not able to formulate a goal or show awareness of how his behavior in response to his paranoid delusions "put himself in altercations with others." (47: 22; App. 35). However, even if M.D.S.'s interaction with Weitzer

could be considered an "altercation," there was no evidence that Martin had ever been involved in any other "altercations," much less any violent ones.

During his interaction with Weitzer, Martin was saying strange, nonsensical things and making a nuisance of himself. The most concerning thing he did was to make a gun sign with his hand and point it at Weitzer, saying something about a "showdown," although it was clear to Weitzer that he was not carrying a gun. (47: 14; App. 27). Both the circuit court and the court of appeals relied on Martin's references to a "showdown" with police as evidence of his dangerousness. (47: 35-36; App. 48-49; Slip Op. ¶22). Both courts seem to believe this "threat" establishes dangerousness without regard to its credibility.

Martin was blustering. Both the circuit court and the court of appeals ignored the fact that police arrived and took Martin into custody without any hint of the "showdown" he blustered about. There never was a weapon or any attempt to obtain one. There is no evidence that police encountered a threatening situation here. Nor is there evidence that they expected to encounter that and mounted any kind of heightened response. According to Weitzer the entire episode lasted a total of 15-20 minutes before police arrived. (47: 13; App. 16). Therefore, within mere minutes of M.D.S. issuing his "threat," he was, as far as this record reveals, taken into

custody by police without resistance.[4] The fact that M.D.S. made no move to carry out his threat—or even to repeat it to police—surely answers the question how likely it was that he would carry out his threat.

In addition, Martin had paranoid ideas about the police harassing him and made YouTube videos about it. (47: 28; App. 41). Those videos depicted interactions between Martin and police that were not, as far as this record reflects, violent or threatening. (47: 28; App. 41). After being detained, Martin made nonsensical religious statements, including threats directed toward imaginary people not present in the room.[5] (47: 6-7; App. 19-20). He did not threaten any real people. (47: 8; App. 21). Martin was not verbally or physically aggressive toward staff at any time following his detention. (47: 29; App. 42). The evidence did not warrant the conclusion that it was

[4] No officer involved in taking M.D.S. into custody testified. Weitzer did observe the officers taking M.D.S. into custody. Regarding this, he said only that he believed they took him away in an ambulance. (47: 15; App. 28).

[5] Dr. Kabins attributed a statement to Martin about having rifles to kill the Pope. (47: 25; App. 48). The court of appeals relied upon this supposed threat to kill the pope as an indication of dangerousness. (Slip Op. ¶21). The source of this information is unknown and could only have been hearsay. And this statement was not accurate. According to the witness who heard M.D.S.'s statements, he was speaking to imaginary people, including possibly the Pope or some other religious figure. He directed threats to the imaginary people while stating that he "had mercy" on the religious figure he was addressing. (47: 7; App. 20).

much more likely than not that Martin would actually harm others.

Not only was the evidence insufficient to show a substantial probability that Martin would harm others, but the circuit court never even concluded that there *was* such a substantial probability. In its ruling, the circuit court never said that it was much more likely than not that Martin would harm anyone. In fact, the court never mentioned the statutory requirement of a substantial probability at all. Nor did the court say anything about the likelihood that Martin would ever cause harm to anyone. The court seemingly never considered the question. Rather, the court focused solely on what it believed was a threat and the reasonable fear it engendered and ordered the commitment on that basis. (47: 25; App. 38). On this record, one cannot tell whether the court was aware of the requirement of a finding that Martin was much more likely than not to harm others. The circuit court erroneously exercised its discretion by failing to apply the correct legal standard to the question of dangerousness. *See, Krier v. EOG Env't, Inc.*, 2005 WI App 256, ¶ 23, 288 Wis. 2d 623, 707 N.W.2d 915 (an erroneous exercise of discretion occurs if the court applies incorrect legal standards).

In its opinion, the court of appeals similarly ignored the requirement that the subject be much more likely than not to harm others as a prerequisite to a finding of dangerousness under §51.20(1)(a)2.b. The court did not acknowledge that Dr. Kabins'

testimony fell short of that requirement. The court did not acknowledge that the circuit court seemingly failed to consider the question at all. Nor did the court of appeals opine based on its own review of the record that Martin was much more likely than not to harm another person.

The court ruled that Martin "evidenced a substantial probability of physical harm to others." (Slip Op. ¶23; App. 12). The court said:

> The County established this by showing evidence that Alec was placed in reasonable fear that Smith would engage in violent behavior and serious physical harm to at least law enforcement. Indeed, Smith's comments caused Alec to call 911, evaluate Smith's person to determine if he was currently in possession of a firearm, and follow Smith to make sure he did not go into his own residence to retrieve a firearm. Alec's concern of violent behavior and serious physical harm by Smith was objectively reasonable in light of all of Smith's words and actions.

(*Id.*). Like the circuit court, the court of appeals focused entirely on what it believed was a reasonable fear on Weitzer's part. Thus, this case concluded with no declaration by a court that the evidence met the core requirement for a finding of dangerousness—that harm to another individual by Martin was much more likely than not.

Martin—a man who was already under the care of a Veterans Administration psychiatrist—had

an interaction with Weitzer in which he was acting weird and being a pest. This led to his detention. At the subsequent commitment hearing, the testifying psychiatrist would not state that it was much more likely than not that Martin would ever actually harm anyone. Moreover, the circuit court never weighed that question and never concluded that harm to others by Martin was much more likely than not. Nonetheless, Martin was involuntarily committed. The commitment was not supported by sufficient evidence or proper legal conclusions.

This court should grant review and vacate the commitment order.

CONCLUSION

M.D.S., Jr. asks that the Court grant review, reverse the decision of the court of appeals, and vacate the order involuntarily committing him.

Dated this 6th day of December, 2024.

Respectfully submitted,

Electronically signed by Pamela Moorshead
PAMELA MOORSHEAD
Assistant State Public Defender
State Bar No. 1017490

Office of the State Public Defender
735 N. Water Street - Suite 912
Milwaukee, WI 53202-4116
(414) 227-4805
moorsheadp@opd.wi.gov

Attorney for Respondent-Appellant-Petitioner

CERTIFICATION AS TO FORM/LENGTH

I hereby certify that this petition conforms to the rules contained in s. 809.19(8)(b), (bm) and 809.62(4). The length of this petition is 4,594 words.

CERTIFICATION AS TO APPENDIX

I hereby certify that filed with this petition 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 6th day of December, 2024.

Signed:

Electronically signed by
Pamela Moorshead
PAMELA MOORSHEAD
Assistant State Public Defender