STATE OF WISCONSIN

COURT OF APPEALS

DISTRICT IV

Case No. 2024AP002177-CR

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

DESMOND J. WILHITE,

Defendant-Appellant.

On Appeal from an Order Revoking Conditional Release, Entered in the Dane County Circuit Court, the Honorable Josann M. Reynolds Presiding

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BRIEF OF DEFENDANT-APPELLANT

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ISSUES PRESENTED

The state petitioned to revoke Desmond Wilhite's conditional release under Wis. Stat. § 971.17(3)(e). At the hearing on the petition, the state presented no evidence that Mr. Wilhite was dangerous or that his safety or the safety of others required revocation.

1. Is Wis. Stat. § 971.17(3)(e) facially unconstitutional because it permits confinement under an involuntary civil commitment without proof of current mental illness and current dangerousness?

   The circuit court did not decide this issue.

2. Did the state otherwise fail to prove by clear and convincing evidence that Mr. Wilhite was dangerous, that his safety or the safety of others required revocation, or that he violated a rule or condition of his release?

The circuit court held that it need not consider dangerousness but found that the state met its burden to prove that Mr. Wilhite violated a rule of his conditional release.

POSITION ON ORAL ARGUMENT AND PUBLICATION

Mr. Wilhite does not request oral argument. Mr. Wilhite requests publication under Wis. Stat. § 809.23(1)(a) because this case raises a question of constitutional importance that neither this court nor the Wisconsin Supreme Court has answered in a published opinion. Publication is warranted to clarify the law on an issue of substantial and continuing public interest.

STATEMENT OF THE CASE AND FACTS

Desmond Wilhite has been committed to the care of the Department of Health Services (DHS) since September 6, 2022, after he was found not guilty by mental disease or defect (NGI) of threatening a law enforcement officer. (R.2:1, R.65:1-2; App. 3-4). Mr. Wilhite was committed for a period of 3 years, which was equivalent to the maximum period of confinement that could be imposed had he been convicted. (R.65:1-2; App. 3-4). The court initially ordered Mr. Wilhite conditionally released.

On January 24, 2024, the state petitioned to revoke Mr. Wilhite's conditional release. (R.117:1-2). According to the petition, the state alleged that on January 12, 2024, Mr. Wilhite violated the rules of his conditional release by "fail[ing] to treat group home staff member, Jonathan Beckett, with courtesy and respect" and "act[ing] disorderly by breaking the

window, kicking the water bucket and throwing OxiClean." (R. 117:2).

The circuit court held a hearing on the petition over the course of three days. The state called four witnesses to testify. First, the state called Nicole Brierly, Mr. Wilhite's Department of Corrections (DOC) probation agent. (R.178:4-5; App. 90-10). Ms. Brierly testified that she did not witness the incident at Mr. Wilhite's group home that prompted the petition to revoke his conditional release and she did not receive any photographs of any purported damage. (R.178:11-12; App. 16-17).

The state then called Jacob Kornelik, Mr. Wilhite's conditional release case manager. Mr. Kornelik testified that Mr. Wilhite violated his rules of conditional release when, "[p]er the incident reports, Mr. Wilhite was verbally threatening staff in the group home on January 12." (R.178:27; App. 32). He also testified that he wrote an incident report without witnessing Mr. Wilhite breaking a window, kicking a mop bucket, or spilling OxiClean and without talking to anyone who did witness the incident. (R.178:29-30; App. 34-35). Instead he wrote the report based on another report. (R.178:30-31; App. 35-36).

After Mr. Kornelik testified, the court adjourned the hearing to allow the state to produce evidence of what rules Mr. Wilhite violated and how he violated them. (R.178:35; App. 40). The court explained that "I don't think in my cursory review of the statute that

there needs to be a showing of dangerousness." (R.178:35; App. 40).

When the court reconvened, the state called Tyler Mohr, an employee of "Summit 5," the group home where Mr. Wilhite lived. Mr. Mohr testified that on January 11, 2024, he was working at Summit 5 and observed Mr. Wilhite being loud and making seven or eight phone calls which, according to Mr. Mohr, was against the rules. (R.184:10; App. 52). According to Mr. Mohr, after he told Mr. Wilhite that he could not go outside and took the phone from him, Mr. Wilhite became upset and called Mr. Mohr "a little cry baby bitch" and an "asshole." (R.184:12-13; App. 54-55). Mr. Mohr acknowledged that Mr. Wilhite did not threaten him or touch him. (R.184:16-17; App. 58-59). Instead, Mr. Wilhite called him names and then went outside to call his social worker. (R.184:16-17; App. 58-59). Mr. Mohr agreed that speaking to his social worker and going outside is often a good coping strategy. (R.184:18; App. 60).

The state then called Jonathan Beckett, a service coordinator for Mr. Wilhite's group home. (R.184:20-21; App. 62-63). Mr. Beckett testified that he went to the group home on January 12, 2024, and filed an incident report. (R.184:21-22; App. 63-64). According to Mr. Beckett, Mr. Wilhite was frustrated because Mr. Beckett would not discuss the incident from the day before with him. (R.184:23-24; App. 65-66). Mr. Beckett explained that Mr. Wilhite stomped around, slammed a door, threw a phone, kicked a mop bucket, and slammed a window shut. According to

Mr. Beckett the window was off track but he "fixed all that stuff" and Mr. Wilhite tried to help clean up. (R.184:25-26; App. 68-69).

The state then recalled Jacob Kornelik. (R.184:53; App. 95). Mr. Kornelik discussed Mr. Wilhite's rules and the recommendation that Mr. Wilhite's conditional release be revoked. (R.184:55-58; App. 95-100). Mr. Kornelik confirmed that Mr. Wilhite called him on January 11, 2024, seeking his help and asking him to come to the group home for support. (R.184:58-59; App. 100-101). Mr. Kornelik confirmed that he was not aware of any allegation that Mr. Wilhite made any threats toward anyone. (R.184:59-60; App. 101-102).

After Mr. Kornelik testified, the court again adjourned the hearing. When the court reconvened, Mr. Wilhite testified. (R.179:3-18; App. 115-30). Mr. Wilhite discussed the stress caused by a previous instance of being assaulted in the group home and his brother's death in May 2023. (R.179:5-7; App. 118-19). Addressing the allegations from January 11, 2024 and January 12, 2024, Mr. Wilhite denied using profane language against Tyler Mohr and denied threatening or assaulting him. (R.179:11-12; App. 123-24). Mr. Wilhite explained that he immediately cleaned up the mop bucket after knocking it down, tried to clean up the OxiClean after tipping it over. (R.179:14-16; App. 126-28). Mr. Wilhite denied slamming the window but acknowledged that a small plastic piece chipped from the window. (R.179:15; App. 127).

After the court heard testimony from Mr. Wilhite's great-aunt and grandmother about Mr. Wilhite's background and a potential placement in an alternative group home, it issued an oral ruling. According to the court, the decision to revoke conditional release placed it "between a rock and a hard place." (R.179:45; App. 157). After acknowledging that "the law has been changed" and this is "not a situation where I have to find dangerousness," the circuit court revoked Mr. Wilhite's conditional release based on rule violations alone. (R.184:7, R.179:46, R.136:1; App. 5, 49, 158)

In reaching its decision, the court commended Mr. Wilhite for not repeating his "history of aggression and explosiveness," acknowledged Mr. Wilhite's "great strides," and wished that "the parties would have worked together" to come to an agreement "to place him somewhere else." (R.179:46, 48; App. 158, 160).

Explaining its decision, the court found that Mr. Wilhite "acknowledged the broken window, the kicked over mop bucket, and the OxiClean." (R.179:47; App. 159). By the court's own admission, those allegations were not particularly serious. (R.179:47; App. 159). But recognizing that its only choice was to "either grant the petition or deny the petition," the court revoked Mr. Wilhite's conditional release and ordered him confined under DHS care "with some significant trepidation" and without any findings about which rules Mr. Wilhite violated. (R.179:47-48; App. 159-60).

The court entered a written order revoking Mr. Wilhites conditional release on February 12, 2024. (R.136:1; App. 5). Mr. Wilhite appeals from that order.

ARGUMENT

I. Wisconsin Statute § 971.17(3)(e) is facially unconstitutional because it permits confinement under a civil commitment without proof of current mental illness and current dangerousness.

Because Mr. Wilhite was found NGI, his commitment is civil and any confinement flowing from that commitment is not a criminal sentence or sanction. *State v. Fugere,* 2019 WI 33, ¶29, 386 Wis. 2d 76, 924 N.W.2d 469. Although it is not a sentence, a civil commitment—for any purpose—is "a significant deprivation of liberty that requires due process protection." *Jones v. United States,* 463 U.S. 354, 361 (1983) (quoting *Addington v. Texas,* 441 U.S. 418, 425 (1979)). In the context of civil commitment, due process "permits the government, on the basis of the [NGI] judgment, to confine [a person] to a mental institution until such time as he has regained his sanity or is no longer a danger to himself or society." *Jones,* 463 U.S. at 368.

In other words, without proof that a civil committee is currently "both mentally ill and dangerous," confinement stemming from the commitment violates due process. *Foucha v. Louisiana,* 504 U.S. 71, 77 (1992). Yet under Wis. Stat.

§ 971.17(3)(e), courts may confine an NGI acquittee in a state mental health institute based on a mere rule violation—no matter how minor or technical—without proof of mental illness or dangerousness. Because any confinement under § 971.17(3)(e)—violates due process "absent a determination in civil commitment proceedings of current mental illness[1] and dangerousness," the statute is facially unconstitutional. *Foucha,* 504 U.S. at 78-79.

A. Standard of proof and standard of review.

Statutes are presumed constitutional and the challenger currently bears the burden of proving that the statute is unconstitutional beyond a reasonable doubt.[2] *Mayo v. Wisconsin Injured Patients and Families Comp. Fund*, 2018 WI 78, ¶¶25-26, 383 Wis. 2d 1, 914 N.W.2d 678. To succeed on a facial challenge, "the challenger must show that the statute

[1] Mr. Wilhite does not dispute the fact that he was mentally ill at the time of his revocation. While that fact would be relevant to the merits of an as-applied challenge, a facial challenge must focus on the constitutionality of the text of the statute. *State v. Wood,* 2010 WI 17, ¶13, 323 Wis. 2d 321, 780 N.W.2d 63.

[2] In *Mayo,* the concurring opinion of Justice Rebecca Bradley argued that the party challenging a statute need only make a "plain showing" of unconstitutionality. *Mayo,* 383 Wis. 2d 1, ¶¶79-80. This court is bound by the majority in *Mayo* but Mr. Wilhite preserves the question of whether Wisconsin should follow the United States Supreme Court and employ a burden of proof that is less deferential to statutory language. *See United States v. Morrison,* 529 U.S. 598, 607 (2000).

cannot be enforced under any circumstances." *Wood*, 323 Wis. 2d. 321, ¶13. A successful facial challenge renders the law "void from its beginning to end." *Id*.

The constitutionality of a statute is a question of law that appellate courts review de novo. *State v. Forrett,* 2022 WI 37, ¶5, 401 Wis. 2d 678, 974 N.W.2d 22. The interpretation of statutes is also a question of law reviewed de novo. *Id.*

B. The Due Process Clause requires proof that a person is currently mentally ill and dangerous before an NGI acquittee can be confined.

The purpose of an NGI commitment, "is to treat the individual's mental illness and protect him and society from his potential dangerousness" and the finding of NGI is an acceptable constitutional foundation for the original commitment for treatment and protection of society. *Jones,* 364 U.S. at 366, 368. But, even though initial confinement under an NGI commitment may be permitted based on the acquittee's dangerousness and mental illness at the time, confinement can "not constitutionally continue after that basis no longer exist[s]." *O'Connor v. Donaldson,* 422 U.S. 563, 574-75 (1975).

While the state may "imprison convicted criminals for the purpose of deterrence and retribution, without a criminal conviction, the government has no "punitive interest" in an NGI acquittee's confinement. *Foucha*, 504 U.S. at 80. Thus, "keeping [an NGI acquittee] against his will in a

mental institution is improper absent a determination in civil commitment proceedings of current mental illness and dangerousness." *Foucha,* 504 U.S. at 78.

Even past sexually violent behavior and a "finding of dangerousness, standing alone," are not enough to justify civil confinement under the Due Process Clause. *Kansas v. Hendricks,* 521 U.S. 346, 358 (1997). Past violence and statutory dangerousness requirements must be connected to a mental condition that "narrows the class of persons eligible for confinement to those who are unable to control their dangerousness." *Id.*

Relying on *Foucha*, the Wisconsin Supreme Court has held that—given the "significant deprivation of liberty" involved in any civil commitment—due process demands "clear and convincing evidence that the individual is mentally ill *and* dangerousness" to support confinement under a civil commitment. *Portage County v. J.W.K.,* 2019 WI 54, ¶16, 386 Wis. 2d 672, 927 N.W.2d 509 (emphasis added). Because the commitment "cannot continue after the constitutional basis for it ceases to exist; the findings of mental illness and dangerousness must be current, not retrospective." *Id.* (citing *Foucha,* 504 U.S. at 77-78).

Despite the clear rule in *Foucha* and *J.W.K.* requiring both mental illness and dangerousness, Wisconsin courts are alone in permitting confinement of "insanity acquittees based on dangerousness alone." *State v. Randall*, 192 Wis. 2d 800, 532 N.W.2d 94

(1995) (*Randall I*). While this Court is bound by *Randall I*, it need not decide whether proof of current mental illness is required because Wis. Stat. § 971.17(3)(e) unconstitutionally permits confinement of an NGI acquittee without proof of current dangerousness.

C. Wisconsin Statute § 971.17(3)(e) violates due process because it requires no proof of dangerousness.

Treatment of an NGI acquittee's mental illness and protection from an acquittee's dangerousness are the only "legitimate purposes of commitment following an acquittal by reason of insanity in Wisconsin." *Randall I*, 192 Wis. 2d at 833. But the plain language of Wis. Stat. § 971.17(3)(e) allows for confinement without proof that the revocation of conditional release is based on either purpose.

Historically, Wisconsin courts required a dangerousness finding to support revocation of conditional release under Wis. Stat. § 971.17. The Wisconsin Supreme Court explicitly held that "the standard on *recommitment* for those found not guilty by reason of mental disease or defect is the standard of dangerousness." *State v. Gebarski,* 90 Wis. 2d 754, 769, 280 N.W.2d 672 (1979). Likewise, this Court has held that "the focus of the inquiry at any stage of post-commitment proceedings under § 971.17 is properly upon the concept of dangerousness." *State v. Mahone,* 127 Wis. 2d 364, 376, 379 N.W.2d 878 (Ct. App. 1985).

Yet the legislature eliminated the statutory dangerousness requirement through the enactment of 1989 Wis. Act 334. Through 1989 Wis. Act 334, the legislature modified the standard for revocation of conditional release by replacing the conjunctive term "and" to the disjunctive term "or." Under current law, at a hearing on a petition to revoke conditional release, the state "has the burden of proving by clear and convincing evidence that any rule or condition of release has been violated, *or* that the safety of the person or others requires that conditional release be revoked." Wis. Stat. § 971.17(3)(e) (emphasis added).

Now, Wisconsin's conditional release revocation statute no longer requires a finding that both "the conditions of release have not been adhered to *and* that [the NGI acquittee] poses a *danger* to the safety of others or himself." *State v. Jefferson,* 163 Wis. 2d 332, 340, 471 N.W.2d 274 (Ct. App. 1991). Instead, under the plain language of Wis. Stat. § 971.17(3)(e), if the circuit court determines that the state met it's burden to prove that an NGI acquittee violated a rule or condition of release, it may revoke conditional release and order the acquittee's placement in institutional care without proof of current dangerousness.

"Freedom from physical restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary government action." *Foucha,* 504 U.S. at 80. Because the plain language of Wis. Stat. § 971.17(3)(e) allows the circuit court to physically restrain an NGI acquittee without

requiring the state to prove that the acquittee is dangerous, confinement under that provision violates due process. *Randall I,* 192 Wis. 2d at 840-41.

Randall I teaches that the Due Process Clause demands a finding of dangerousness despite the statutory changes to Wis. Stat. § 971.17(3)(e). According to *Randall I,* Wisconsin's "single standard for [NGI] recommitment" permits confinement only when the state presents "clear and convincing evidence that the person would pose a significant risk of bodily harm to himself or others or of serious property damage if conditionally released." *Id.* at 838, 841.

Contrary to the "single standard for recommitment" in *Randall I,* the state bears no burden to present "proof of present dangerousness" as defined by the legislature in Wis. Stat. § 971.17(3)(a). *Mahone,* 127 Wis. 2d at 375. Because due process always requires a dangerousness finding and Wis. Stat. § 971.17(3)(e) never requires the state to prove dangerousness, the provision cannot be enforced "under any circumstances." *Wood,* 323 Wis. 2d 321, ¶13. Thus the statute is unconstitutional and Mr. Wilhite's conditional release must be reinstated.

II. The state failed to present sufficient evidence to prove that Mr. Wilhite was dangerous, that his safety or the safety of others required revocation, or that he violated a rule of conditional release.

Even if this Court decides or assumes that Wis. Stat. § 971.17(3)(e) is facially constitutional, Wisconsin's "single standard for recommitment" requires proof of current dangerousness to comport with due process. *Randall I,* 192 Wis. 2d at 833, 840-41. Yet here the state presented no evidence to satisfy either the standard for dangerousness in Wis. Stat. § 971.17(3)(a), or to satisfy its burden under Wis. Stat. § 971.17(3)(e). Thus, Mr. Wilhite's confinement violates due process and this Court should reverse and vacate the order revoking his conditional release.

A. Standard of review.

Whether the government met its burden to prove that Mr. Wilhite is dangerous is a mixed question of law and fact. *Langlade Cty. v. D.J.W.,* 2020 WI 41, ¶24, 391 Wis. 2d 231, 942 N.W.2d 277. This Court will not overturn the circuit court's findings of fact unless they are "clearly erroneous" and the application of those facts to the statutory standard is a question of law reviewed de novo. *Id.,* ¶¶24-25. Review of a circuit court's decision revoking an NGI acquittee's conditional release is subject to the same standard. *Jefferson,* 163 Wis. 2d at 338.

B. The state failed to prove that Mr. Wilhite was dangerous or that a safety concern required revocation of conditional release.

The circuit court's oral ruling and the written order show that it did not find that a safety concern justified revocation. (R.179:46-48; R.136:1; App. 5, 158-60). The circuit court's oral ruling also shows that it never even considered dangerousness. Recognizing that "the law has been changed" and this is "not a situation where I have to find dangerousness," the circuit court revoked Mr. Wilhite's conditional release based on rule violations alone. (R.184:7, R.179:46, R.136:1; App. 5, 49, 158).

The standard for "dangerousness" under Wisconsin's NGI commitment scheme is defined in Wis. Stat. § 971.17(3)(a) and (4)(d) and requires clear and convincing evidence that "the person would pose a significant risk of bodily harm to himself or herself or to other or of serious property damage on conditional release." *See Wood,* 323 Wis. 2d 17, ¶35 ("[A] significant risk of bodily harm to himself or herself or to others or of serious property damage" is the "equivalent of dangerousness").

Even if the circuit court had considered that standard, the evidence presented never established any significant risk of bodily harm or property damage. While testimony suggested that Mr. Wilhite—in anger and frustration—used profanities, threw a phone, kicked a mop bucket,

slammed a window closed, and spilled OxiClean on the floor at his group home, the state's witnesses agreed that Mr. Wilhite neither caused nor threatened physical harm or engaged in violent behavior. (R.184:16-17, 25-26, 46; App. 58-59, 67-68, 88).

And while a witness claimed that Mr. Wilhite damaged a window, the state presented no tangible evidence to document the damage and testimony suggests that any damage was quickly fixed and Mr. Wilhite tried to help clean up any mess he made. (R.184:26; App. 68). In reaching its decision, the court commended Mr. Wilhite for not repeating his "history of aggression and explosiveness," acknowledged Mr. Wilhite's "great strides," and wished that "the parties would have worked together" to come to an agreement "to place him somewhere else." (R.179:46, 48; App. 158-59).

Based on those findings and the testimony at the hearing, there is neither proof of dangerousness nor proof that concern for anyone's safety warranted revocation. Because due process requires that "the standard on recommitment for those found not guilty by reason of mental disease or defect is the standard of dangerousness," this Court should reverse the circuit court and order Mr. Wilhite conditionally released. *Gebarski,* 90 Wis. 2d at 768; *see also Randall I,* 192 Wis. 2d at 841.

C. The state failed to prove that Mr. Wilhite violated any rule or condition of his release.

While the court did not find that Mr. Wilhite was a safety concern and did not identify which rules Mr. Wilhite violated, it found that "the state has met its burden by clear and convincing evidence that he has violated his rules." (R.179:46; App. 158). The court erred in reaching that conclusion because the state's evidence that Mr. Wilhite violated the rules of his conditional release were not clear and convincing and it is unclear from the court's ruling what, if any, rules Mr. Wilhite violated.

In its petition to revoke Mr. Wilhite's conditional release, the state alleged that Mr. Wilhite violated the rules of his conditional release by "fail[ing] to treat group home staff member, Jonathan Beckett, with courtesy and respect" and "act[ing] disorderly by breaking the window, kicking the water bucket and throwing OxiClean." (R.117:2). At the hearing, the state alleged that Mr. Wilhite's conduct violated rules #19 and #20 of his conditional release. (R.184:48-49; App. 90-91). Under rule #19, Mr. Wilhite was required to treat his conditional release team, everyone at his group home, his guardian and payee, law enforcement, and treatment providers with "courtesy and respect." (R.134:2). According to rule #20, Mr. Wilhite was barred from engaging "in any verbal, written or physical behavior that is abusive, harassing, threatening, or violent in nature including but not limited to property damage or psychological,

emotional, sexual, or economic intimidation." (R.134:2).

The court found that Mr. Wilhite "acknowledged the broken window, the kicked over mop bucket, and the OxiClean." (R.179:47; App. 159). But by the court's own admission, those allegations were not particularly serious. (R.179:47; App. 159). But recognizing that its only choice was to "either grant the petition or deny the petition," the court revoked Mr. Wilhite's conditional release and ordered him confined under DHS care "with some significant trepidation" and without any findings about which rules Mr. Wilhite violated. (R.179:47-48; App. 159-60). The court's findings show that any evidence of rule violations was not clear and convincing.

Clear and convincing evidence requires "proof to a reasonable certainty by evidence that is clear and convincing." *Town of Schoepke v. Rustick,* 2006 WI App 222, ¶11, 296 Wis. 2d 471, 723 N.W.2d 770. The court's comments—including the acknowledgment that placing Mr. Wilhite somewhere else "would have been the ideal result"—reflect a lack of concern about Mr. Wilhite's safety and the safety of others and a lack of certainty about whether the state proved the purported rule violations. (R.179:46-48; App. 158-60).

Unlike the NGI acquittee in *Jefferson*—who "eloped from" and threatened to "blowup" his placement facility—Mr. Wilhite's conduct was not dangerous or a violation of the law. *Jefferson*, 163 Wis. 2d at 339. Based on the evidence before the

trial court, Mr. Wilhite was revoked and remains confined in a mental health facility because he became frustrated and caused a disruption at his group home. Because both the Due Process Clause and Wis. Stat. § 971.17(3) demand that the state produce more evidence than was presented here, the circuit court erred by granting the state's petition to revoke Mr. Wilhite's conditional release. This court should reverse.

CONCLUSION

For the reasons stated above, Desmond Wilhite respectfully requests that this Court to reverse and remand with directions for the circuit court to vacate the order revoking his conditional release and reinstate his conditional release.

Dated this 27th day of January, 2025.

Respectfully submitted,

Electronically signed by
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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 3,860 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 27th day of January, 2025.

Signed:
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