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June 28, 2021

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JUN 30 2021

CLERK OF SUPREME COURT
OF WISCONSIN

Ms. Sheila Reiff, Clerk of the Supreme Court and Court of Appeals
110 East Main Street, Suite 215
P.O. Box 1688
Madison, WI 53701-1688

Re: *State v. Kuehn*, Appeal No. 2018AP2355-CR.

Ms. Reiff:

I am in receipt of the Court's order dated June 21, 2021 seeking input as to "the impact of the Schmidt case, if any, on the issues raised in the petition for review."

The petition for review filed in this case presents three issues: (1) whether defense counsel was ineffective for failing to pursue a third-party perpetrator defense; (2) whether it was proper to impose a child pornography surcharge for read-in offense and (3) whether a condition of extended supervision that Mr. Kuehn have no contact with his adult girlfriend is overbroad and unreasonable.

Of these three issues, Issue #2 is the only one impacted by this Court's recent decision in *Schmidt*, which resulted in a 4-3 vote affirming the circuit court's order permitting imposition of the surcharge for read-in offenses. Although Mr. Kuehn does not wish to concede that this interpretation is legally correct and that his claim is now meritless, he is forced to concede that his petition for review presents arguments identical to those which have now been rejected in *Schmidt*. Issues #1 and #3 are unimpacted by this Court's decision in *Schmidt*.

Sincerely,

Christopher P. August
Assistant State Public Defender