

JANET C. PROTASIEWICZ

Franklin, WI 53132

September 23, 2012

The Honorable Scott K. Walker

115 East State Capitol

Madison, WI 53702

RE: Judicial Appointment – Milwaukee County Circuit Court Branch 45

Dear Governor Walker,

I would greatly appreciate your consideration of my attached application for the position of Circuit Court Judge in Milwaukee County, Branch 45.

As you can see from my application and attached materials, I have over twenty-four years experience as a prosecutor. As my references will attest, I have a broad range of support from the legal community across the political spectrum, and extensive civil and criminal trial experience. I am a dedicated public servant, as well as a contributing member to our community, as borne out by my years of community involvement in social, professional, non-profit, and religious organizations.

I have a stellar reputation in the legal community as an attorney whose ethics are beyond reproach. I appreciate the opportunity to further serve my community, and hope you will do me the honor of reviewing my qualifications and deeming me worthy of appointment to this post.

Very sincerely yours,

Janet C. Protasiewicz

attachments

JANET C. PROTASIEWICZ

Franklin, Wisconsin 53132

PROFILE

Highly experienced litigator serving as an Assistant District Attorney in Milwaukee County. Extensive background in trial work, motion practice, oral and written argument, supervision and training of attorneys and independent management of high-profile cases. Vast experience authoring both trial and appellate court briefs. Deeply concerned about fairness to litigants. Excellent ability to exercise judgment and discretion.

EXPERIENCE

Assistant District Attorney

Milwaukee County District Attorney's Office • 1988 - Present

- Prosecute criminal cases including complex felonies, serious offender crimes, misdemeanors, traffic and domestic violence offenses
- Review, file, litigate and handle appeals of CHIPS (Children In Need of Protection or Services) and TPR (Termination of Parental Rights) matters
- Argued a case involving best interests of children before Wisconsin Supreme Court on March 2, 2000
- Supervise a team of attorneys prosecuting CHIPS cases at Milwaukee County Children's Court while maintaining a full time caseload

Faculty

United States Department of Justice – National Advocacy Center, Columbia, South Carolina • 1998 – Present

- Instructor of litigation, evidence, strategic trial technique and pre-trial practice
- Critiqued and advised prosecutors from across the country on mock trial performances

Music Critic

Milwaukee Journal • 1987 – 1988

- Reviewed numerous concerts in Milwaukee area
- Familiar with different genres of music, attended concerts and published reviews for the next day's newspaper

EDUCATION

Marquette University
Juris Doctor, 1988

University of Wisconsin–Milwaukee
Bachelor of Arts, History, 1985
Magna Cum Laude, Phi Beta Kappa

AFFILIATIONS

- Fairchild Inns of Court
- TEMPO International
- Association of Women Lawyers (AWL)
- Marquette University Law School Alumni Board (2011-present)
- Basilica of St Josaphat Foundation Board member
- Professional Dimensions

REFERENCES

The Honorable John T. Chisholm
Milwaukee County District Attorney
821 W. State Street, Room 405
Milwaukee, WI 53233
[REDACTED]

Attorney Michael Steinle
Terschan & Steinle, Ltd.
309 N. Water Street, Suite 215
Milwaukee, WI 53202
[REDACTED]

The Honorable David Hansher
Milwaukee County Circuit Court Judge, Branch 42
949 N. 9th Street, Room 634
Milwaukee, WI 53233
[REDACTED]

The Honorable Daniel Konkol
Milwaukee County Circuit Court Judge, Branch 44
949 N. 9th Street, Room 629
[REDACTED]

APPLICATION FOR APPOINTMENT TO THE COURT
(Please attach additional pages as needed to fully respond to questions)

DATE: 09-23-2012

WISCONSIN BAR NO.: 01001915

I. GENERAL:

1. Name: Janet Claire Protasiewicz (formerly Madden)
Email: Janet.Protasiewicz@da.wi.gov - or - [REDACTED]
2. Date admitted to practice law in Wisconsin: 05-23-1988
3. Date admitted to practice law in other states: n/a
4. Current employer and title: State of Wisconsin, Milwaukee County District Attorney's Office, Assistant District Attorney
5. Work address: 821 W. State Street
City: Milwaukee County: Milwaukee State: WI ZIP: 53233
Telephone: [REDACTED] / 414-278-5088 (general)
6. Residential Address: [REDACTED]
City: Franklin County: Milwaukee State: WI ZIP: 53132
Length of time at this residence: 5 years
Home telephone: [REDACTED]
Cell phone: [REDACTED]
7. List all previous residences for the past ten years
[REDACTED] Wauwatosa, WI 53226
8. Place of birth: Milwaukee, WI
Date of birth: 12-03-1962 Age: 49
9. Are you a registered voter at your current address? Yes No
10. Wisconsin driver's license number: [REDACTED]

11. Marital status: married

If married: Spouse's name: Gregory J. Sell

Date of marriage: [REDACTED]

Spouse's occupation [REDACTED]

If ever divorced, please provide all former spouses' names and current addresses, the dates and places of divorce, and the court and case numbers for the divorces.

[REDACTED]

12. List any children (including stepchildren).

<i>Name</i>	<i>Age</i>	<i>Occupation</i>	<i>Residential address</i>
[REDACTED]			

13. Answer yes or no to the following questions. Attach a separate page explaining any affirmative answers.

a) Yes No Do you currently have a physical or mental impairment that in any way limits your ability or fitness to properly exercise your duties as a member of the Judiciary in a competent and professional manner?

b) Yes No In the past ten years, have you unlawfully used controlled substances as defined by federal or state laws? Unlawful use includes the use of one or more drugs and/or the unlawful possession or distribution of drugs. It does not include the use of drugs that were prescribed to you and taken under lawful supervision of a licensed health care professional.

c) Yes No Since leaving high school, have you, for other than academic reasons, ever been denied enrollment,

disciplined, denied course credit, suspended, expelled, or requested to terminate your enrollment by any college, university, law school, or other educational institution?

- d) Yes No Have you failed to meet any deadline imposed by court order or received notice that you have not complied with substantive requirements of any contractual arrangement?
- e) Yes No Have you ever been held in contempt or otherwise formally reprimanded or sanctioned by a tribunal before which you have appeared?
- f) Yes No Are you delinquent in your mandatory continuing legal education?
- g) Yes No Have you ever been a party to a lawsuit either as a plaintiff or as a defendant? If yes, please supply the jurisdiction and/or county, case number, nature of lawsuit, whether you were the plaintiff or defendant, and disposition of each lawsuit.
- h) Yes No Has there ever been a formal complaint filed against you, a finding of probable cause, citation, or conviction issued against you, or are you presently under investigation by the Wisconsin Judicial Commission, the Supreme Court of Wisconsin, the Office of Lawyer Regulation, or any other state or federal equivalent, or any court, administrative agency, bar association, or other professional group, in any jurisdiction?
- i) Yes No If you are a quasi-judicial officer, have you ever been disciplined or reprimanded by a sitting judge?
- j) Yes No In the past five years, have you ever been cited for a municipal or traffic violation, excluding parking tickets?
- k) Yes No Have you ever failed to timely file your federal or state income tax returns?
- l) Yes No Have you ever paid a tax penalty?
- m) Yes No Has a tax lien ever been filed against you?
- n) Yes No Have you ever filed a personal petition in bankruptcy or has a petition in bankruptcy been filed against you?
- o) Yes No Have you ever owned more than ten percent of the issued and outstanding shares, or acted as an officer or director, of any corporation by which or against which a petition in bankruptcy has been filed?

II. EDUCATION:

14. List secondary schools, colleges, law schools, and any other professional schools attended.

<i>School</i>	<i>Dates Attended</i>	<i>Degree(s) Earned and GPA</i>
Pius XI High School, Wauwatosa, WI	1977-1981	High School Diploma *
University of Wisconsin-Milwaukee	1981-1985	Bachelor of Arts (History Major) - graduated Magna Cum Laude*
Marquette University Law School, Milwaukee, WI	1985-1988	Juris Doctor *
* GPA of 3.6 or above - transcripts upon request		

List and describe academic scholarships, awards, honor societies, and extracurricular involvement. Note any leadership positions.

HIGH SCHOOL ACTIVITIES: Key Club (President), Student Counsel (Member), Student Mentor, and "Pius Scope" (staff writer school paper)

COLLEGE ACTIVITIES: Dean's List, Phi Beta Kappa, UW-Milwaukee Mortar Board

III. MILITARY EXPERIENCE:

15. List all military service (including Reserves and National Guard).

<i>Service</i>	<i>Branch</i>	<i>Highest Rank</i>	<i>Dates</i>

Rank at time of discharge:

Type of discharge:

List any awards or honors earned during your service. Also list any citations or charges pursued against you under the Uniform Code of Military Justice.

N/A

IV. PROFESSIONAL ADMISSIONS:

16. List all courts (including state bar admissions) and administrative bodies having special admission requirements to which you have ever been admitted to practice, giving the dates of admission, and, if applicable, state whether you have ever been suspended or have resigned.

<i>Court or Administrative Body</i>	<i>Date of Admission</i>
State Bar of Wisconsin / Wisconsin Supreme Court	1988
U.S. District Court (Eastern)	1988

V. NON-LEGAL EMPLOYMENT:

17. List all previous full-time non-legal jobs or positions held in the past eight years.

<i>Date</i>	<i>Position</i>	<i>Employer</i>	<i>Address</i>

VI. LEGAL EMPLOYMENT:

(If you are a sitting judge, answer questions 18–23 with reference to before you became a judge.)

18. State the names, dates, and addresses of all legal employment, including law school and volunteer work.

<i>Date</i>	<i>Position</i>	<i>Employer</i>	<i>Address</i>
1987-1988	Legal Intern	M&I Bank	770 N. Water St.
1987-1988	Student Tutor/Mentor	Marquette Law	1103 W.

		School	Wisconsin Ave.
1988-Present	Assistant District Atty.	Milw. Co. DA	821 W. State St.
1998-2003	Seminar Instructor (1-2 weeks/year for per diem)	National Advocacy Center	1620 Pendleton Street, Columbia, SC 28201

19. Describe your legal experience as an advocate in criminal litigation, civil litigation, and administrative proceedings.

I have had the honor of serving as an Assistant District Attorney in Milwaukee County since receiving my Juris Doctor degree from Marquette University Law School in 1988. For the first year, I was assigned to the Family Division - Child Support Enforcement Unit.

In the Family Division, I prosecuted paternity actions, which are civil in nature. These are commenced either by the parent or alleged father of the child, or by the State interceding when public assistance is received by the mother. State intercession has two purposes; in order to recoup through child support the State's expenses, and/or establishing legal parental rights, and the responsibility of supporting a child.

During my assignment in the Family Division, I initiated actions to establish paternity and child support, appeared before Family Court Commissioners, drafted and handled de novo appeals of commissioner decisions to the judge, conducted motion and trial practice before Circuit Court Judges, and initiated and prosecuted post-adjudication child support enforcement actions, such as motions for contempt. If there was not an agreement to assume responsibility, these matters were taken to a trial by jury, and I conducted my first jury trial while in this assignment.

In 1990, the District Attorneys were transferred by legislation to employment by the State, and the Family Division remained a County function. At that time, I transferred to the Criminal Division, where I spent two years prosecuting general crimes at the Misdemeanor level. This assignment involved reviewing criminal charges referred by law enforcement, drafting and filing criminal complaints, and then prosecuting criminal matters before the Circuit Courts in Milwaukee County.

The Misdemeanor court calendars are extremely heavy, with numerous trials, motions, and pleas on a daily basis. In addition to the courtroom practice, I was assigned appeals to brief for the Court of Appeals, as the Attorney General handles only felony appeals. I conducted numerous jury trials while in this assignment, on a wide variety of crimes including batteries, weapons offenses, property crimes, and the delicate and difficult domestic violence cases in that specialized unit.

In 1992, I transferred to the Children's Court Center, where I was assigned to the Juvenile Division. Over the 16 years I was there, I spent several years prosecuting criminal delinquency and sexual assault cases, which at that time entailed trials to a jury, practicing both before Juvenile Court Commissioners and the Circuit Court. These involved strict time limits, heavy caseloads, and substantial pretrial motion practice, as well as jury trials. The sexual assault cases, with juvenile perpetrators and frequently child victims, were particularly challenging but important cases to handle with skill and sensitivity.

I was also assigned during this period in the civil units of the Juvenile Division. I had two rotations as a CHIPS (protective service) prosecutor, the second time serving as a team captain. CHIPS cases involve complicated civil litigation, including depositions, pretrial motions, and many times trials to a six person jury, on the issue of whether the parent(s) can adequately and safely care for their child(ren). Many times these trials were lengthy, because there were multiple children or multiple parents involved, each of whom were represented by their own attorneys.

Because of my extensive experience in CHIPS, I was assigned for several years to prosecute Termination of Parental Rights (TPR) cases. These are also civil in nature, but are tried to a 12 person jury. They are very lengthy and complicated trials, involving the same pretrial practice as a CHIPS case, such as conducting depositions and drafting interrogatories, but also involving proving to a jury all the prior history of that CHIPS case as a basis for now terminating the rights of parent(s) to a child.

There are numerous attorneys involved in TPR cases, representing each child and each parent, in addition to the prosecutor. These cases are frequently appealed, so preparation for trial and protection of the record for appeal is imperative, because there could be no worse outcome than a decision being reversed and a child's life again being thrown into chaos by retrial or return to parent(s) who are unfit, and losing placement in a foster home or adoptive home that has provided this child with love, safety, and stability.

It is the prosecutor's job, therefore, to present a cohesive and understandable case to citizens serving as jurors, to justify the basis for taking away the rights of a parent who is unwilling or unable to parent. With so many other litigants, social workers, psychological testimony, graphic and distasteful facts, and the awesome responsibility of rendering a decision in a TPR case, it is the prosecutor who has the responsibility of informing and empowering the jury to give the child(ren) at issue in the case the safety, care, and permanence that every child deserves.

There are a multiplicity of issues in TPR cases, including the rights of grandparents and siblings, which have to be considered, and this assignment not only involved intense preparation for trial and the trial itself, but was the period of my career where I was engaged in the bulk of my post-conviction litigation experience, both at the Court of Appeals and Wisconsin State Supreme Court level.

In 2000, I was responsible for drafting the State's brief to the Wisconsin State Supreme Court in the appeal of a TPR trial. I then had the honor of arguing that case before the

Court. This involved tremendous preparation for oral argument, but was a very fulfilling experience. The case was remanded by the Court, and the State ultimately prevailed in this matter. The Attorney General handles the bulk of appeals in this state, so few assistant district attorneys have the opportunity to follow a case from its inception, through trial, and through appeal to conclusion, which I found incredibly challenging and rewarding as an attorney.

In 2008, after 16 years in the Juvenile Division, I was given the opportunity to broaden my experience further in transferring back to the adult Criminal Division. Since then, I have been assigned to a General Felony team, prosecuting serious felony offenses such as armed robberies, arsons, and burglaries. I have also had the opportunity to assist in the prosecution of several homicide cases, as second chair to a member of that specialized unit.

In my assignment in General Felonies, I review police referrals and make the charging decisions, and then vertically prosecute that case through the preliminary hearing before a Court Commissioner, before appearing before the Circuit Court. These are important and complicated cases, with many years of prison potentially hanging in the balance. A prosecutor has to have experience, skill, and judgment in this assignment, because it is the liberty of the defendant, and Justice for the victim, which hang in the balance. I have litigated many cases in this assignment, including pretrial motion practice, jury trials, and briefing and responding to post-conviction motions.

As the Attorney General handles these appeals, it is imperative that the trial attorney make a proper record throughout the prosecution, so there are no errors which could result in reversal. After many years of civil practice, it has been exciting to return to criminal courts. The opportunity to work with and learn from the finest prosecutors and members of the defense bar in this assignment has been very fulfilling.

20. What percentage of your legal career has been in:

Court		Area of Practice	
Federal appellate:	_____ %	Civil:	<u>45</u> %
Federal trial:	_____ %	Criminal:	<u>50</u> %
Federal other:	_____ %	Family:	<u>5</u> %
State appellate:	_____ %	Probate:	_____ %
State trial:	_____ %	Other:	_____ %
State administrative:	_____ %		
State other:	_____ %		
TOTAL	<u>100</u> %		<u>100</u> %

21. In your career, how many cases have you tried that resulted in a verdict or judgment?

Jury: >50

Non-jury: >100

Arbitration: _____

Administrative bodies: _____

22. How many cases have you litigated on appeal? Please provide case names and case numbers. If you have litigated less than twenty cases, please describe the nature of each case, your involvement, and each case's disposition.

27, per WSCCA website (additional Court of Appeals cases from the 1990s are predate that search engine):

2010AP000764	CA	State v. Eric Evans	Felony	Milwaukee
2003AP000374	CA	State v. Robert J.S.	Juvenile-CHIPS	Milwaukee
2001AP002897	CA	State v. June J.	Juvenile-CHIPS	Milwaukee
2001AP001283	CA	State v. Wesley H.	Juvenile-CHIPS	Milwaukee
2001AP001282	CA	State v. Wesley H.	Juvenile-CHIPS	Milwaukee
2001AP001281	CA	State v. Wesley H.	Juvenile-CHIPS	Milwaukee
2000AP001955	CA	State v. Sylvia O.	Juvenile-TPR	Milwaukee
2000AP001405	CA	State v. Harry S.	Juvenile-TPR	Milwaukee
2000AP000990	CA	State v. Melissa E.	Juvenile-TPR	Milwaukee
1999AP002407	CA	State v. Consuella J.	Juvenile-TPR	Milwaukee
1999AP001813	CA	State v. Zena H.	Juvenile-TPR	Milwaukee
1999AP001777	CA	State v. Floyd P.	Juvenile-TPR	Milwaukee
1999AP001441	SC	State v. Margaret H.	Juvenile-TPR	Milwaukee
1999AP001193	CA	State v. Deidra J.	Juvenile-TPR	Milwaukee
1999AP000455	CA	State v. Boyce P.	Juvenile-TPR	Milwaukee
1999AP000434	CA	State v. Ronnie P.	Juvenile-TPR	Milwaukee
1999AP000382	CA	State v. Tamika F.	Juvenile-TPR	Milwaukee
1999AP000366	CA	State v. Denise B.	Juvenile-TPR	Milwaukee
1999AP000118	CA	State v. Rochelle H.	Juvenile-TPR	Milwaukee
1998AP002254	CA	State v. Deidra J.	Juvenile-TPR	Milwaukee
1998AP001810	CA	State v. Kycha L.	Juvenile-TPR	Milwaukee
1998AP000344	CA	State v. Diane R.	Juvenile-TPR	Milwaukee
1998AP000071	CA	State v. Pamela T.	Juvenile-TPR	Milwaukee
1997AP002667	CA	State v. Hayes A.J.	Juvenile-TPR	Milwaukee
1997AP001583	CA	State v. Patricia A.M.	Juvenile-TPR	Milwaukee
1995AP001152	CA	State v. Veronica J.	Juvenile-CHIPS	Milwaukee
1993XX004627	CA	Joseph B. v. State	Juvenile-Delinquency	Milwaukee

23. List and describe the two most significant cases in which you were involved; give the case number and citation to reported decisions, if any. Describe the nature of your participation in the case and the reason you believe it to be significant.

1. State of Wisconsin (Petitioner) [REDACTED] (Appellants) v. [REDACTED] (Respondent-Petitioner), 2000 WI 42 (Supreme Court of Wisconsin):

This was a termination of parental rights (TPR) case involving the legal rights of the respondent-petitioner, who was the guardian and maternal grandmother of the two subject children. The State filed a petition to terminate the parental rights the mother and father of these children, so that they could be adopted by their foster parent. Both parents were defaulted in the TPR proceeding, so there was no trial to a jury on the first phase of grounds for TPR. At the trial court level, even when there is a default against the parents, the court must still determine whether there are grounds for TPR, which were found here. In the second phase of the TPR, the court must make a finding that it is in the best interests of the children to grant the TPR. It was in this phase that the novel issue of grandparent rights arose. The court found the guardian/grandmother had standing to object to the TPR, and she did so and asked for placement of the children. There was then a hearing before the court on this issue, and the court found that TPR was not in the best interests of these children, despite the proven fact that they had very minimal contact with the guardian/grandmother. The Guardian Ad Litem appealed this decision, and it was reversed and remanded by the Court of Appeals. The guardian/grandmother then filed a petition for review by the Wisconsin State Supreme Court of that decision, which was granted.

I was assigned to the TPR unit at this time, and filed the original petition for termination of rights. I then conducted the court hearings related above, and when the petition for review was granted by the Wisconsin State Supreme Court, I authored the Petitioner's Brief, and argued the case before the Wisconsin State Supreme Court, which affirmed the Court of Appeals and remanded the case back to the trial court.

This was a highly complicated and extremely time consuming process. There was very little case law on grandparents' rights to rely upon in arguing the merits of the case. Additionally, while this case was ongoing, I was still maintaining my regular caseload of court appearances and conducting jury trials.

I have attached the brief to this application as a writing sample, as a review of it makes clear the complexity of issues in TPR litigation. It illustrates that in briefing and arguing to the court, one never knows what issues they will use to base their upon on. In this instance, it was not the issue of grandparents' rights that became determinative, but rather the argument I made that severing the legal ties to the biological family did not necessarily mean that the children would not have a relationship with their biological family.

The process of preparing for and arguing before the Wisconsin State Supreme Court was very arduous and an educational experience for me. The State prevailed in this matter, and the children's best interests prevailed.

2. State of Wisconsin v. Clancy L. Jacob, Milwaukee County Case Number 08CF005889:

This case was litigated at the circuit court level, and the petition for post-conviction review was recently denied. Shortly after this case was charged, when I assumed an adult felony criminal caseload, I was assigned this case pre-trial. This involved a serious felony, an armed robbery of a bank, approximately a month after this defendant was placed on probation for three other armed robberies. The defendant's confession was a critical component in proving this case, as the perpetrators were masked, so no identification was possible. The defense filed a motion to suppress the confession, which I litigated and briefed. I have attached a copy of this brief as my second writing sample, and it outlines the State's position on the issue of suppression.

Despite my best efforts, the confession was suppressed. This resulted in my litigation of a difficult circumstantial case. The case lingered on for a period of time such that the juvenile co-actor had already been adjudicated, but he refused to testify against his cousin/co-actor. The juvenile co-actor had confessed and implicated this defendant Jacob, but continued to refuse to testify despite my obtaining federal immunity from further prosecution, until he was found in contempt of court, obtained counsel, and eventually was willing to testify. This co-defendant's compelled "willingness" to testify caused the defendant to ultimately plead guilty to this serious offense, and be sentenced to a substantial term consecutive to the revocation of his probation on the earlier offenses.

This case, although it did not go through the appellate process, was significant to me because of its complexity, and it illustrates my skills as a litigator, zealous advocacy for the State, and pursuit of Justice for the victims of crime.

VII. PRIOR JUDICIAL EXPERIENCE:

24. Have you ever held judicial or quasi-judicial office? If so, state the court(s) involved and the dates of service.

<i>Dates</i>	<i>Name of Agency/Court</i>	<i>Position Held</i>

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- A. List the names, phone numbers, and addresses of two attorneys who appeared before you on matters of substance.

N/A

- B. Describe the approximate number and nature of cases you have heard during your judicial or quasi-judicial tenure.

N/A

- C. Describe the two most significant cases you have heard as a judicial officer. Identify the parties, describe the cases, and explain why you believe them to be significant. Provide the trial dates and names of attorneys involved, if possible.

N/A

VIII. PREVIOUS PARTISAN OR NON-PARTISAN POLITICAL INVOLVEMENT:

25. Please list all instances in which you ran for elective office. For each instance, list the date of the election (include both primary and general election), the office that you sought, and the outcome of the election. Include your percentage of the vote.

N/A

26. Have you ever held a position or played a role in a judicial, non-partisan, or partisan political campaign, committee, or organization? If so, please describe your involvement.

I volunteered in the non-partisan judicial campaign of Milwaukee County Circuit Court Judge Jane Carroll. I worked as a constituent liaison from 1981-1983 for the late Congressman Clement J. Zablocki in his Milwaukee district office and volunteered in his campaign office. I have attended both partisan and non-partisan judicial fundraisers. I co-organized a fundraiser for Representative Timothy Carpenter. I am a member of the Wisconsin Democratic Party.

27. Please list all judicial or non-partisan candidates that you have publically endorsed in the last six years.

Judge Jane Carroll

IX. HONORS, PUBLICATIONS, AND PROFESSIONAL AND OTHER ACTIVITIES:

28. List any published books or articles, giving citations and dates.

N/A

29. List any honors, prizes, or awards you have received, giving dates.

I have been invited to become a member of The Fellows of the Wisconsin Law Foundation, and will be inducted on October 2, 2012.

30. List all bar associations and professional societies of which you are a member; give the titles and dates of any office that you may have held in such groups and committees to which you belong or have belonged.

State Bar of Wisconsin (1988-Present)

Fairchild Inns of Court (joined 1988, current 2004-Present): Barrister Status

Association of Women Lawyers (intermittantly 1988-Present)

Marquette University Law School Alumni Board (2011-Present): Member of the Public Interest Law Society Auction Committee and the Advent/Lenten Reflection Committee

Marquette University Law School Alumni Association (1988-Present)

UW-Milwaukee Alumni Association (1985-Present)

Saint Thomas More Society (1988, 2010-Present)

31. Describe any additional involvement in professional or civic organizations, volunteer activities, service in a church or synagogue, or any other activities or hobbies that could be relevant or helpful to consideration of your application.

TEMPO Milwaukee (2002-Present)

Application for Judgeship

Professional Dimensions: Charitable Foundation Co-Champion (2010-2011)

Junior League (1997-Present)

MULS Class of 1988 Reunion Committee (2008 & 2013)

Rotary Club of Milwaukee: Volunteer RIF and Done-In-A-Day (2007-Present)

St. Josephat Basilica Foundation: Board Member

Journey House Foundation: Board Member

St. Alphonsus Parish, Greendale: Member

Polish Heritage Alliance, Milwaukee: Member/Volunteer

Milwaukee Athletic Club: Member

Tuckaway Country Club: Member

Hobbies include attending theater, cooking classes, tennis, reading, travel, and fitness activities.

Independent charitable activities include: Feeding Milwaukee organizing a food drive, teaching ethnic cooking classes at the Polish Center, and cooking classes in my home to groups of underprivileged girls who participate in Girls in the House program through Journey House.

32. Describe any significant pro bono legal work you have performed in the last five years.

Based upon my position as a prosecutor, I am unable to engage in outside legal activities on a paid or pro bono basis.

33. Describe any courses on law that you have taught or lectures you have given at bar association conferences, law school forums, or continuing legal education programs.

From 1998-2003, I taught yearly weeklong seminars at the National Advocacy Center in South Carolina. This is a national training facility for federal and state prosecutors across the country, under the auspices of the United States Department of Justice.

34. Describe any other speeches or lectures you have given.

N/A

X. FINANCIAL INVOLVEMENT:

35. If you or your spouse are now an officer, director, or otherwise engaged in the management of any business enterprise, state the name of such enterprise, the nature of the business, the nature of your duties, and you or your spouse's intended involvement upon your appointment or election to judicial office.

My husband, Attorney Gregory Sell, is a partner, board member, and treasurer at his law firm, Davis & Kuelthau, S.C.

36. Describe any business or profession other than the practice of law that you have been engaged in since being admitted to the Bar.

N/A

37. Describe any fees or compensation of any kind, other than for legal services rendered, from any business enterprise, institution, organization, or association of any kind that you have received during the past five years.

N/A

XI. ADDITIONAL INFORMATION:

38. Explain in one page or less why you want to become a judge/justice.

I have practiced in court rooms where litigants believe at the end of the process that they have been heard, treated with respect, and given their "day in court". Unfortunately, I have also been in courtrooms where there has either been the appearance of favoritism, or actual favoritism, resulting in litigants believing they have been treated unfairly.

The ability to have access to a fair and impartial judiciary is one of the most important rights granted to U.S. citizens. When a person feels that he/she has been

treated fairly, has been able to air grievances or look for satisfaction for an actionable loss, and has been treated with respect, even when the outcome is not in the person's favor, he/she is satisfied that the process is fair.

I want to be a judge so that all the parties appearing in front of me are satisfied at the end of the day that they were heard, treated with respect, their arguments considered, and an impartial and reasoned decision was rendered. I believe this is critical to the judicial system, and I want to be a part of the tradition in Milwaukee County of a competent, fair, and impartial judiciary.

After my many years of public service as a prosecutor, I have acquired a wide range of experience and legal acumen. I believe that the next step for me in public service is to put this experience to its best application in serving as a circuit court judge. If so honored, I would be a highly prepared jurist, presiding over cases with dignity and impartiality.

I believe my experience in both civil and criminal law would be an asset to the bench. The qualities which I possess as a prosecutor; a dedicated work ethic, legal scholarship, the highest degree of ethics, the ability to work with colleagues on both sides of the bar, and my dedication to the rights of victims would stand me in good stead as a judge.

I believe my years of public service not only in my profession, but in the civic organizations I have participated in, amply demonstrate my dedication to our community and state. I have acquired years of experience in moving a calendar, but it is my temperament and sensitivity to all litigants' dignity, my character and fairness, that would make me a valuable asset to our community in this new capacity. It is for this reason that I am applying for appointment to the circuit court.

39. In one page or less, name one of the best United States or Wisconsin Supreme Court opinions in the last thirty years and explain why you feel that way.

In my opinion, one of the best decisions rendered by the U.S. Supreme Court in the last 30 years is *Berghuis v. Thompkins*, 560 U.S. ____ (2010) (docket 08-1470). In this decision, the Court found that silence of a defendant was not to be implied as an invocation of Miranda rights to silence, and that the defendant's conduct may constitute a waiver of silence.

This was a homicide case where the defendant was advised of his Miranda warnings, with the police even having him read the rights allowed. The defendant then remained silent for two hours, but never expressly invoked his right to silence under Miranda. The Court held that because the defendant did not verbally invoke his right to silence, inculpatory statements and gestures (nods) he made during questioning could be used against him.

I believe that in order to exercise the right to silence a defendant must affirmatively invoke that right. This was a decision rooted in both precedent and common sense. Law enforcement is not beholden to guess the intent or wishes of a defendant, and should not be hampered in the execution of their duties by gamesmanship of the defendant or trial counsel. The opinion of Justice Kennedy, with which Justices Scalia, Thomas, Alito, and Chief Justice Roberts concurred is well reasoned and does not alter the state of the law through judicial activism. It respects precedent, and therefore I agree with this decision and believe it to be an important clarification of the law for the guidance of law enforcement.

40. In one page or less, name one of the worst United States or Wisconsin Supreme Court opinions in the last thirty years and explain why you feel that way.

In my opinion, *State v. Dubose*, 2005 WI 126, 285 Wis.2d 143, 699 N.W. 2d 582 (2005), which is a Wisconsin State Supreme Court case, is one of the worst decisions rendered in the last thirty years. In this decision, the Court suppressed the use of an identification of a suspect where the reliability was factually beyond doubt.

The Court used social science, rather than the law, in fashioning this decision. In doing so, the Court required a higher standard of due process in Wisconsin than is afforded by the U.S. Constitution, and denied the State the ability to use reliable and relevant evidence at trial and allow the jury to exercise its function of determination of guilt or innocence with all relevant and admissible evidence before it.

The case deals with the "show up" identification on scene, rather than detaining the suspect and conducting a line up. In the fact situation of this case, the police detained a suspect meeting the physical description of the perpetrator within thirty minutes of the crime, after running from the police, with the firearm found in the path of the pursuit, and with the victim having previous contact with the perpetrator and an opportunity to observe the perpetrator at length before the crime was committed. An on scene identification was conducted, rather than the suspect being arrested and standing in a line up. The suspect was identified, tried and convicted, the conviction was upheld at the Court of Appeals, but reversed and remanded by the Wisconsin State Supreme Court. As the dissent of Justice Roggensack aptly stated, "There is no indication of unreliability in this identification" (at 194), yet upon remand a jury would be denied the right to hear this relevant and reliable evidence.

The prosecution of serious crimes has suffered from this ruling. Prosecutors have been unable to file charges, if the method of identification did not comport with this case. Other cases that were charged did not result in convictions, because the prosecutor was not allowed to present crucial identification evidence, even if there was no reason to question its reliability and no bad faith shown in the police action.

Some may look at requiring the police to use line-ups for identification as a protection of defendant's rights. Of course line-ups themselves are subject to challenge if they are deemed to be suggestive, raising the spectre of suppression. It is my opinion that this case ruling is overly broad, because it was not shown in this instance that the identification was unreliable, or that the police did the identification in this manner to obtain an unjust result.

In looking at the rights of the defendant, it should have also been considered that an on scene identification can often result in a victim or witness clearing the person who has been detained by the police, resulting in exoneration without arrest, detention, and the person's liberty being abridged. If Dubose had been cleared by the victim here, there would have been no harm in this on-scene identification procedure. Quite to the contrary, it would have been to his benefit.

The majority did not apply precedent in deciding this case. Instead, social science research on the ability of the human mind to make accurate identifications was used as the justification for the decision. The problem with this is that social science is constantly shifting. There is always another study, another theory, and this should not be the basis for throwing out a conviction where there was no indication that the identification was unreliable or the product of police misconduct.

The court could have narrowly tailored the decision, finding in this case that the identification was permissible, but giving guidance to the lower courts and law enforcement of the permissible parameters of such identifications. Instead, the Court abandoned previous jurisprudence, both state and federal. The broadness of this decision hampered law enforcement, without a rational basis to do so, resulting in a denial of Justice to the victim.

41. In one page or less, describe your judicial philosophy.

My judicial philosophy is based upon the rule of law. As scholars interpret that term differently, and observers of the legal system tend to assign labels such as conservative, moderate, or liberal, it is important for me to elaborate on what I mean by that statement.

More than 2000 years ago, Aristotle said, "The rule of law is better than that of any individual," and I most heartily agree with that statement. I believe that the role of the judge is not to approach any case from a particular political bent. A judge's duty is to be impartial, to be open to the arguments of all sides, to question the strengths and motivations of these arguments, and then to dispassionately apply the letter of the law to the question of law at issue before the court, before rendering a legally sound, reasoned, and just decision.

In viewing the judge's duty in this way, it helps define what the judge should not be doing. That is imposing his/her own personal philosophy in the rendering of a decision, nor to bend the law to fit a predetermined and desired outcome of the judge. The judge must always remember that the law is supreme, and all citizens, businesses, and even government are subject to the law.

The boundaries of judicial authority are enunciated in the U.S. Constitution and the State of Wisconsin Constitution. While a judge has enormous power and latitude in his/her duties, it is not the function of the judicial branch to usurp either the legislative branch's function, or limit the authority of the executive branch exercise its mandated duties.

The beauty of our government, is the system of checks and balances within each branch, and the checks and balances within the three branches of government. The Court has the power to apply the law, as well as to interpret legislation, using the Constitution and prior case law as the foundation of this analysis.

It is not the function of a circuit court judge to legislate, but to apply the laws as they are written. The circuit court judge wields tremendous power over the fate of litigants, most importantly to the possible deprivation of liberty, so it is imperative that he/she understand the limits of those powers and not overstep those boundaries.

When the Court is sitting as the trier of fact, such as in a motion hearing or court trial, then the judge has latitude to use the same factors a juror is asked to use in determining credibility and plausibility of the evidence or argument. When the Court is sitting as a judge of the law, however, it is the strict application of the current law that determines which party shall prevail, or the jurist is overstepping his/her authority.

42. If you have previously submitted a questionnaire or application to this or any other judicial nominating commission, please give the name of the commission and the approximate date of submission.

N/A

43. Describe any other information you feel would be helpful to your application.

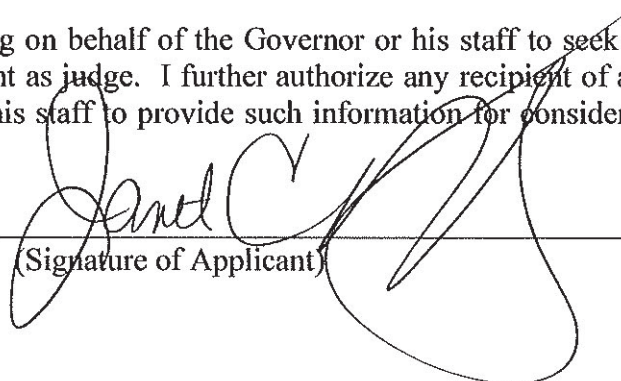
It is difficult to distill a career as long as mine into a summary of two or three cases. Each area where I have been assigned in the District Attorney's Office has been a tremendous learning experience, and each and every case has taught me something about the law. The juvenile cases many times do not get public attention, because they are statutorily confidential, but their impact is profound because they effect the whole life of a child, who hopefully will be helped by the system to become a productive adult member of society and not another statistic, abuser, victim, or defendant.

The legal issues involved in CHIPS cases are complex, and the stakes are high. I have attached an article about one such case from the Milwaukee Journal Sentinel (October 29, 2006), relating to the issue of parental rights versus the best interests of the child in stability and permanence. The case of Edward LeFlore illustrates the importance of these civil cases, and the frustration of seeing an absentee parent resurface and regain custody, when the child had been flourishing in a stable and long term foster home. This illustrates how I will proceed with a case that has difficult issues, to endeavor to do Justice.

WAIVER AND AUTHORIZATION:

I hereby authorize any person acting on behalf of the Governor or his staff to seek information related to my interest in appointment as judge. I further authorize any recipient of a request for information from the Governor or his staff to provide such information for consideration of my application.

September 23, 2012
(Date)

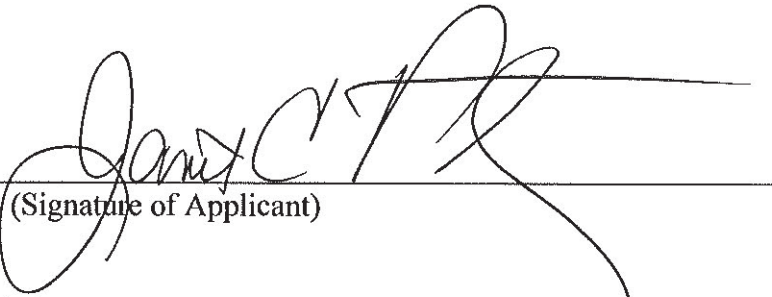

(Signature of Applicant)

NOTICE OF DISCLOSURE:

I acknowledge and understand that this application and supporting materials, when submitted to the Governor of Wisconsin, generally becomes public record. I therefore understand that this means my name, the fact that I have applied to be appointed as a judge, and my application materials could be released to the public.

Application for Judgeship

September 23, 2012
(Date)


(Signature of Applicant)

Please note that under certain, limited circumstances, applications for appointed positions may be exempt from disclosure under the public records law. If you wish your application to remain confidential to the extent allowed by law, please send a request to that effect in writing along with your application.

Such a request does not ensure that your application will remain confidential. In general, you should expect that all materials submitted will be disclosed. But the Governor's Office will honor such a confidentiality request to the extent the law allows. A request for confidentiality will not adversely affect your application for appointment.

SUPREME COURT OF WISCONSIN

Appeal No. 99-1441

IN RE THE TERMINATION OF PARENTAL RIGHTS TO
[REDACTED]
PERSONS UNDER THE AGE OF 18:

STATE OF WISCONSIN,

Petitioner,

[REDACTED]

Appellants

v.

[REDACTED]

Respondent-Petitioner.

PETITIONER'S BRIEF ON BEHALF OF THE STATE OF WISCONSIN

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STATEMENT OF THE ISSUES

1. Whether the circuit court erroneously exercised its discretion when it failed to consider the best interest of the children in regard to its decision to dismiss the petition to terminate parental rights.
2. Whether the circuit court erroneously exercised its discretion when it failed to consider five of the six standards in sec. 48.426(3) Wis. Stats. which shall be considered in making a best interest determination.
3. Whether the circuit court erred in finding that the children have a substantial relationship with their maternal grandmother.
4. Whether granting a petition to terminate parental rights severs more than the legal relationship between a child and his or her biological family.

STATEMENT OF ORAL ARGUMENT AND PUBLICATION

The Petitioner recommends oral argument because this case involves nuances and development of the law, voluminous facts and policy concerns that are appropriate for oral argument and that would be more thoroughly and effectively resolved through oral exchange.

Petitioner also recommends publication of this court's opinion because it will identify and clarify the best interests standard to be applied in termination of parental rights cases. This Court's decision will merit publication because it will decide a type of case that is of substantial public interest and concern.

STATEMENT OF THE CASE

Procedural Status of the Case

This review is pursuant to a Supreme Court order of September 28, 1999 granting maternal grandmother, [REDACTED] s Petition for Review.

On April 6, 1999, the circuit court entered an Order denying the State of Wisconsin's petition to terminate the parental rights to [REDACTED] (R:3) The children's Guardian ad Litem appealed the trial court order and the Court of Appeals reversed and remanded the matter to the trial court for further proceedings with orders that the trial court must consider the twins' best interests as paramount. [REDACTED] then filed a Petition for Review.

Statement of the Facts

Chronology of Critical Facts

[REDACTED]

February – March 1993: [REDACTED] live with their mother for approximately one month while she is in drug treatment. (R. 62:41)

March 1993 – May 3, 1993: Mother leaves children with maternal grandmother, who is presumably the primary caretaker of children. (R. 62:43)

May 3, 1993 – February 2, 1994: CHIPS Order is entered on May 3, 1993 and children are placed with their maternal aunt on June 10, 1993 and remain in that placement until February 2, 1994. (R. 62:43-44)

February 2, 1994 – July 13, 1994: [REDACTED] live in the first of four foster home placements. (R. 62:45)

July 13, 1994 – July 22, 1994 [REDACTED] live in their second foster home. (R. 62:45)

July 22, 1994 – March 1998: [REDACTED] spend the bulk of their life in their third foster home. (R. 62:45)

1994: Maternal grandmother visits children four times during this year. The boys are in a non-relative placement as of February 2, 1994. (R. 62:46)

1995: Maternal grandmother visits children, who are still in a non-relative placement on four occasions. (R. 62:46)

1996: Maternal grandmother visits children, who remain in a non-relative placement on three occasions. (R. 62:46)

April 22, 1996: The permanency plan is changed from placement in the home of the grandmother to termination of parental rights/adoption on July 3, 1996. Efforts to recruit an adoptive resource commence. [REDACTED] is in court when the permanency plan is changed. (R. 62:50, 86)

1994 – 1998: [REDACTED] are not placed with [REDACTED] because her home is not large enough to accommodate the boys. (R.62:49)

1997: Maternal grandmother has one visit with [REDACTED] (R. 62:46)

March 12, 1998: Maternal grandmother is advised that an adoptive resource has been located for [REDACTED] (R. 62:50-51)

March 1998: Maternal grandmother begins to see children on a regular basis. (R. 62:51)

November 20, 1998 and January 15, 1999: Dispositional contest before Judge Donald.

CAST OF CHARACTERS

[REDACTED] The children were born on [REDACTED] [REDACTED] to a mother with longstanding drug and alcohol addictions. (R. 43:10) [REDACTED] may have suffered from the effects of their mother's cocaine use during pregnancy. (R.43:11) The children's natural grandmother [REDACTED] [REDACTED] believes the children were neglected emotionally and physically while in their mother's care. (R. 43:10)

At the time of the dispositional hearing on November 20, 1998, the five-year-old twins suffered from Reactive-Attachment Disorder as a result of having lived with seven different caretakers in five years. (R. 62:45 and 63:19) Although the children had numerous behavior problems, their behavior had improved significantly since being placed with [REDACTED] in March of 1998. (R. 62:29) Dr. Cheryl Brosig, their treating physician/therapist strongly recommended against any further changes in their placement. (R. 62:11) Dr. Stephen Emiley, court appointed psychologist agreed that permanency is extremely important to these children. (R. 63:19)

██████████ a 41-year-old female, is the foster mother and proposed adoptive parent of ██████████. The children were placed in her home in March 1998. (R. 62:45) These are the only children living in her home. (R. 62:22) She has proven to be an excellent resource for these children. ██████████

██████████ has rearranged her work schedule and lifestyle to accommodate these children. (R. 62:20) She has sought out as much information and training as possible in order to effectively parent these children. (R. 62:24-25) She is seen as having an excellent capacity for empathy and sensitivity to the emotional needs of these children and they appear to have responded to this. (R. 43-14) ██████████ testified that if allowed to adopt the children that she would continue contact with their biological family, including their grandmother and their siblings. (R. 62:26)

██████████ the children's maternal grandmother, was 62 years old on November 20, 1998. (R. 43:1) ██████████ is raising seven of her grandchildren including five of ██████████ siblings. (R. 62:77-78)

Three of ██████████ eight children have suffered from chemical dependency problems. (R. 43:10) The children currently in her care also suffer from a number of serious behavior problems. ██████████ is in day treatment at St. Charles, ██████████ is in the detention center on charges of strong-arm robbery and battery. (R. 62:87-88) ██████████ was committed to corrections for aggravated battery. (R. 62:88-89)

██████████ who is now requesting placement of the twins, visited them only twelve times during the first four years they were in foster care. (R. 62:47)

She only began regular visitation after hearing that an adoptive home had been found for the children and that a termination of parental rights petition would soon be filed. (R. 62:50-51)

ARGUMENT

I. THE CIRCUIT COURT ERRED WHEN IT FAILED TO CONSIDER THE BEST INTEREST OF THE CHILDREN IN REFUSING TO GRANT THE STATE'S PETITION FOR TERMINATION OF PARENTAL RIGHTS.

The trial court erroneously exercised its discretion and made a mistake of law when, after a two day hearing, it failed to make any findings as to the best interest of the children. A determination of the best interests of the child in a termination proceeding depends on first-hand observation and experience with the persons involved, and therefore, is committed to the sound discretion of the circuit court. A circuit court's determination will not be upset unless the decision represents an erroneous exercise of discretion. Termination of Parental Rights of Kegel, 85 Wis.2d 574, 579, 271 N.W.2d 114 (1978). The exercise of discretion requires a rational thought process based on examination of the facts and application of the relevant law. Hartung v. Hartung, 102 Wis.2d 58, 66, 306 N.W.2d 16 (1981). Whether or not the trial court applied the appropriate legal standard in this case requires interpretation of the Children's Code (Ch. 48, Stats.) and Wisconsin case law and should be reviewed de novo. McEvoy v. Group Health Coop. Of Eau Claire, 213 Wis.2d 507, 517, 570 N.W.2d 397 (1997).

Section 48.01, Wis. Stats., indicates that the best interest of the child shall always be of paramount consideration when construing Ch. 48. Moreover, Sec. 48.426 (1) Wis. Stats., which specifically applies to termination of parental rights cases, mandates that the trial court consider the best interest of the child to be the prevailing factor considered by the court in determining the disposition of all proceedings under this subchapter.

In the instant case, there is no evidence that the circuit court gave any consideration to the best interest of [REDACTED] when it dismissed the termination of parental rights petition. The Court of Appeals was correct in its analysis that the trial court's oral decision reveals that it considered the feelings, efforts, and desires of the grandmother as paramount. (App. 7)

II. THE CIRCUIT COURT'S FAILURE TO CONSIDER FIVE OF THE SIX FACTORS SET FORTH IN SEC. 48.426(3) CONSTITUTES AN ERRONEOUS EXERCISE OF DISCRETION.

In a proper exercise of discretion, the trial court must consider each of the factors listed in Sec. 48.426 (3) Wis. Stats. These factors are:

- (a) The likelihood of the child's adoption after termination.
- (b) The age and health of the child, both at the time of the disposition and, if applicable, at the time the child was removed from the home.
- (c) Whether the child has substantial relationships with the parent or other family members, and whether it would be harmful to the child to sever these relationships.

- (d) The wishes of the child.
- (e) The duration of the separation of the parent from the child.
- (f) Whether the child will be able to enter into a more stable and permanent family relationship as a result of the termination, taking into account the conditions of the child's current placement, the likelihood of future placements and the results of prior placements.

In this case the trial court ignored all the mandated factors, except for a cursory consideration of §48.426 (3) (c).

If the trial court had properly considered each of the five remaining factors, it would have come to the inescapable conclusion that it was in [REDACTED] best interest to grant the petition for termination of parental rights.

The first factor the court should have considered is: The likelihood of the children's adoption after termination.

The evidence showed:

- [REDACTED] stated that she wished to adopt [REDACTED] (R. 62:21)
- [REDACTED] testified that she completed four separate sets of parenting classes in an effort to know as much as she could prior to placement of the children. The Department requires foster parents to complete only one set of parenting classes. (R. 62:22, 27)
- [REDACTED] indicated that she was aware of the fact that the boys had behavioral problems and had special needs, but that she was fully committed to raising them to adulthood. (R. 62:28)

- Case manager Rick Lockwood, the social worker assigned to the case, testified that the children are adoptable. (R. 62:53)
- Rick Lockwood recommended the plan of adoption by [REDACTED] (R. 62:52)
- Gail Albergotti, social worker with the Milwaukee County Adoptions Unit, testified that adoption by [REDACTED] was the appropriate plan for the boys. (R. 62:67)

The evidence shows that [REDACTED] has gone to great lengths to prepare for having the children placed with her and to properly parent them. She is well aware of their special needs and the fact that it may not be easy to rear them. She is fully committed to raising them to adulthood. The social workers assigned to the case are confident that this is an appropriate adoptive placement.

The second factor to be considered is: The age and health of the children, both at the time of disposition and, if applicable, at the time the children were removed from the home.

The evidence as to this factor showed:

- [REDACTED] were two months old when originally removed from their mother's care. (R. 11)
- [REDACTED] were five years old at the time of disposition.
- Dr. Cheryl Brosig, the children's therapist, indicated that the children suffer from Reactive-Attachment Disorder. (R. 63:19, App. 9-11)

- Dr. Brosig further testified that while in an earlier placement, the children had a history of drinking out of the toilet and wandering through the house at night. (R. 62:10)
- Dr. Brosig stated that the children's condition has improved since their placement with [REDACTED]. The children appear to be more organized, more focused and more settled. (R. 62:9-10)
- [REDACTED] stated that when the children first came to live with her in March, 1998, that they displayed a number of behavior problems including hitting, kicking, biting, spitting, crying and screaming. (R. 62:29) She further testified that by November, 1998, the children's behavior had become more manageable. (R. 62:29)

The evidence shows that these children have been living outside their parents' home since infancy. They have absolutely no attachment to either of their parents. The evidence also shows that the children have an Attachment Disorder and serious behavior problems, which have improved since placement with [REDACTED]. [REDACTED] obviously has an understanding of the boys' special needs and has the ability to meet those needs.

The next factor, which the court failed to consider, in total, is the wishes of the children. Although the guardian ad litem refused to directly inform the court of the wishes of the children, there was evidence in the record to indicate what the wishes of the children were: (R. 63:38)

- Dr. Stephen Emiley, court appointed psychologist, testified that [REDACTED] consistently refers to [REDACTED] as “mom” and sees her as his source of nurturing, security and support. (R. 44:2)
- Dr. Emiley states [REDACTED] did not like having visits with his grandmother. (R. 44:2)
- Dr. Emiley reports that [REDACTED] views [REDACTED] as being caring and attentive to his needs and offers feelings of love toward her, which he feels are reciprocated. (R. 44:2)
- According to Dr. Emiley, both children see the foster mother as nurturing and caring. (R. 44:4)
- Per Dr. Emiley, neither [REDACTED] view the grandmother as being nurturing or interactive. (R. 44:4)

While the children are too young to fully understand the concept of adoption and their wishes should not be binding, it is clear that they have bonded to [REDACTED]. She is a source of security and love for [REDACTED] considers her to be his mother. The children have flourished in her home.

The next factor, which should have been considered is: The duration of the separation of the parent from the child.

- [REDACTED] lived with their mother as newborns. They lived with her for about one month while she was in drug treatment. (R. 62:41)

- There is no evidence that the biological father of the boys has ever had any contact with them.

These five-year-old twins have been separated from their mother since infancy. Their mother is a stranger to them. Their biological father, whose identity is uncertain, has never had any contact with them. They have no ties, whatsoever, to their parents.

The next factor which the court overlooked is: Whether the children will be able to enter into a more stable and permanent family relationship as a result of the termination, taking account the conditions of the children's current placement, the likelihood of further placements and the results of prior placements.

Stable and permanent family relationship taking into account children's current placement:

- [REDACTED] wishes to adopt the children. (R. 62:21)
- [REDACTED] understands the children's need for stability as evidenced by the fact that she initiated visits with the children's former foster family, fostered visits between the twins and their biological family and maintained continuity in their schooling. (R. 62:20-21, 31)
- [REDACTED] have been accepted into [REDACTED] family. (R. 62:28)
- [REDACTED] testified that the children's behavior has improved since placement in her home. (R. 62:29)

- Dr. Brosig stressed the importance of maintaining stability and consistency in the children's lives, and stated that the only way that they're ever going to get better is if they can count on someone being there; that they have a routine; that they have consistency in their lives. (R. 62:11)
- Dr. Cheryl Brosig testified that the condition of the children has improved since placement with [REDACTED] in that they are more organized, focused and settled. (R. 62:9-10)
- Dr. Stephen Emiley observed that [REDACTED] has an excellent capacity for empathy and sensitivity to the emotional needs of these children and they appear to have responded to this. (R. 43:14)
- The children, according to Dr. Emiley, obviously have much more individualized attention under the care of [REDACTED] and she has a willingness to put the boys' needs before hers. (R. 43:14)

Stable and Permanent Family Relationship taking into account the likelihood of future placements:

- [REDACTED] is 62 years old and was employed at the time of the termination hearing. (R. 62:72, 91)
- Dr. Brosig testified that another big change would be disruptive to the children. (R. 62:11)

- Visitation between the grandmother and the children has been sporadic up to the time of the filing of the Petition for Termination of Parental Rights. (R. 62:47)
- Dr. Emiley concluded that [REDACTED] has a tendency to underestimate the special needs of these children. (R. 43:14)
- [REDACTED] had other children in her home at the time this matter was heard and several of those children were having serious problems. (R. 62:90) [REDACTED] age 12, is in day treatment at St. Charles. (R. 62:87) [REDACTED] is in the detention center being held on charges of strong-arm robbery and battery. (R. 62:88) [REDACTED] spent time in corrections for aggravated battery. (R. 62:88-89)

Stable and Permanent Family taking into account the result of prior placements:

- For the first month of their lives the children lived with their mother. (R. 62:41)
- The children then lived with [REDACTED] for a period of no longer than three months. (R. 62:43)
- On June 10, 1993, the children were placed with their maternal aunt where they remained for eight months. (R. 62:44)
- The children were placed in the first of four foster homes on February 2, 1994, and remained there for five months. (R. 62:45)

- The children were moved to the second foster home on July 13, 1994, and stayed in that placement for nine days. (R. 62:45)
- The third and longest foster care placement was made on July 22, 1994, and lasted for a period of close to four years. (R. 62:45)
- The children were placed in the pre-adoptive home of [REDACTED] in March, 1998. (R. 62:45)
- As a result of the numerous placements, these children now suffer from Reactive-Attachment Disorder. (R. 63:19)
- Dr. Stephen Emiley testified that the children's problems are directly related to the massive instability they suffered while growing up. (R. 63:19)

Any reasoned analysis of the past, present and possible future placements of these children leads to the conclusion that placement with [REDACTED] would provide the children with a stable and permanent family relationship. On the other hand, placement with [REDACTED] would result in additional instability, inconsistency and chaos. These children, already diagnosed with Reactive-Attachment Disorder, can not be expected to withstand another change in their placement. It is cruel and inhumane to remove them from [REDACTED] to whom they are strongly attached and view as their mother.

III. THERE IS NO RATIONAL OR REASONED BASIS FOR THE CIRCUIT COURT'S FINDING THAT THE CHILDREN HAD A SUBSTANTIAL RELATIONSHIP WITH THEIR GRANDMOTHER.

The only factor under §48.426 (3), which the trial court even attempted to address, is § 48.426 (3)(c), which requires an analysis of whether the children have substantial relationships with the parent or other family members, and whether it would be harmful to the children to sever these relationships.

The language of § 48.426 (3)(c) limits the court's inquiry to only those relationships which are substantial. Therefore, we must determine whether the relationship between [REDACTED] and their biological family was substantial. In order to do so, we must first define the word "substantial." Unfortunately, substantial is not defined in either Ch. 48 or in case law. Absent any statutory definition, the meaning of non-technical words may be ascertained from a recognized dictionary. State v. Wittrock, 119 Wis.2d 664, 670, 350 N.W.2d 647, 651 (1984).

The New Webster's Dictionary and Thesaurus of the English Language (1993) defines substantial as:

1. having real existence, not imaginary
2. firmly based
3. relatively great in size, value or importance
4. (of meals) large and filling
5. (of food or drink) very nutritive
6. strong, made to last
7. well-off, financially sound

██████████ argues that when the trial court considers the relationship between the children and the biological family, that it is duty bound to consider only the legal relationship. The Court of Appeals was correct in rejecting this argument.

There are two separate relationships between family members; there are the actual relationships and the legal relationships. Only the actual relationship holds any meaning to children. Thus, a trial court analysis of whether an actual relationship exists and whether it will continue to exist is a proper avenue to explore. Limiting the trial court's examination to only the legal relationship would frustrate the intent of §48.426, which is that all relevant evidence is to be considered.

If the legislature had intended the word "relationship" to mean only the "legal relationship," it would have used the phrase "legal relationship" in §48.426(3)(c) instead of "substantial relationship." In addition, the language of §48.426(3) directs that the circuit court's inquiry should not be limited to the six listed criteria. The court in In re: Brandon S.S., 179 Wis.2d 114, 147, 507 N.W.2d 94 (1993) held that the grandparents who had been excluded from the proceeding had important, relevant evidence to present about their relationship with the child. Obviously the language in Brandon S.S. is demonstrative of the fact that the trial court is to consider all evidence effecting the best interest of the child.

In this case, ██████████ testified that she expected the actual relationship between the children and biological family to continue. (R. 62:26) Looking at

██████████ past conduct, there is every reason to believe that ██████████ testimony is true. ██████████ from the very beginning, has put the best interest of the children ahead of all other considerations. For example, despite the strained relationship between ██████████ and ██████████ cooperated fully with the biweekly visitation schedule. (R. 62:38) She has been involved in their therapy and provides an individualized, nurturing and loving environment for the children. ██████████ told Dr. Emiley that if she were allowed to adopt, that she would encourage continued contact with their biological family. (R. 43:7) Dr. Emiley concludes that ██████████ reveals a willingness to put the boys' needs before hers. (R. 43:14)

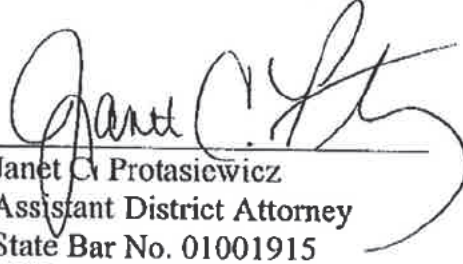
The trial court must be free to consider, weigh and analyze all relevant evidence relating to the best interest of the children. If this court were to accept ██████████ argument regarding §48.426 (3) (c), the trial court would have to ignore much relevant evidence. This cannot be in the best interests of the children.

CONCLUSION

Despite the abundance of available evidence, the circuit court erroneously exercised its discretion when it failed to consider the standards and factors in §48.426. For this reason, this court should remand this matter to the circuit court with orders to consider the best interest of the children as paramount. Or in the alternative, the urgent need for these children to have permanence and stability, as mandated in Ch. 48 requires that this court, as a matter of law, reverse the decision of the trial court and free these children for immediate adoption.

Dated at Milwaukee, Wisconsin this 7th day of December, 1999.

Respectfully submitted,


Janet C. Protasiewicz
Assistant District Attorney
State Bar No. 01001915


CERTIFICATION

I certify that this brief conforms to the rules contained in sec. 809.19(8)(b) and (c) for brief produced using the following font:

Proportional serif font: Min. printing resolution of 200 dots per inch, 13 point body text, 11 point for quotes and footnotes, leading of min. 2 points, maximum of 60 characters per full line of body text. The length of this brief is 4,910 words.

Dated at Milwaukee, Wisconsin this 7th day of December, 1999.

Signed,



Jane C. Protasiewicz
Assistant District Attorney
State Bar No. 01001915

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**COURT OF APPEALS
DECISION
DATED AND FILED**

July 27, 1999

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

No. 99-1441

STATE OF WISCONSIN

IN COURT OF APPEALS
DISTRICT I

IN RE THE TERMINATION OF PARENTAL RIGHTS
TO [REDACTED]
PERSONS UNDER THE AGE OF 18:

STATE OF WISCONSIN,

PETITIONER,

[REDACTED]

APPELLANTS,

v.

[REDACTED]

RESPONDENT.

APPEAL from an order of the circuit court for Milwaukee County:
M. JOSEPH DONALD, Judge. *Reversed and cause remanded for further
proceedings.*

FINE, J. [REDACTED] twin boys born in [REDACTED] appeal, by their guardian *ad litem*, the trial court's order dismissing the State's petition to terminate the parental rights of their birth mother, and placing them in the home of their maternal grandmother. We reverse and remand for further proceedings.

I.

Although this case was prosecuted as a termination-of-parental rights matter, it is, in essence, a custody dispute between the grandmother of [REDACTED] on the one hand, and [REDACTED] the children's foster mother on the other. No one disputes the trial court's finding that the twins' birth mother abandoned the children and, therefore, as recited in the trial court's order, "[g]rounds exist to terminate" her parental rights to the twins. See § 48.415(1)(a)2, STATS.

The children started out their lives with their birth mother, who was then living with her mother. According to the testimony of a Milwaukee County social worker, the children's birth mother "left the children unattended in the home of the maternal grandmother." In June of 1993, when they were four months, one week old, the twins were removed from the grandmother's home and placed with their birth mother's sister. The children stayed with their aunt until early February of 1994, when, at the age of one year, they went to live in a foster home. They stayed in the foster home until mid-July, when they were placed in a different foster home. They stayed in this second foster home about a week, when they were moved again to a third foster home. They stayed in this third foster home until March of 1998, when, at age five, they were placed with [REDACTED] the foster mother with whom they were living at the time of the hearing on November 20,

1998. [REDACTED] was forty-one at the time of the hearing. She wants to adopt the twins.

The trial court heard testimony from two psychologists, two social workers, the grandmother [REDACTED] and the aunt in whose home the twins once stayed. The psychologists and social workers agreed that the twins should continue to live with [REDACTED] and that she should be permitted to adopt them. The essence of their recommendation was that the children, who suffered from Reactive-Attachment and Attention-Deficit disorders, had bonded with [REDACTED] and that she was more capable of addressing their special needs than was the grandmother. Thus, the psychologist who evaluated the twins and both women told the trial court that "the grandmother may not have an accurate assessment of the extent of these boys' special needs and ability to respond to them effectively."¹

¹ The psychologist, in the course of his evaluation of the grandmother [REDACTED] and the children, noted a difference in the children's interaction with the two women:

Both were at ease in the presence of [REDACTED] and alternated sitting on her lap. Eye contact was good and there were signs of affection and rapport. The children did refer to [REDACTED] as, "Momma." [REDACTED] left her seat to interact with the boys directly as they were interested in exploring examiner's office. There was playful tickling and they later talked about school motivational problems and also religious matters. [REDACTED] set appropriate limits as needed, and the children were responsive to this. One boy was distressed as to the possibility of not being able to remain with [REDACTED] at the end of the observation. The quality of interaction was felt to be good.

[REDACTED] was somewhat resistive to going in to see the grandmother, and required a degree of encouragement on the part of the foster mother to do so. The boys initially sat at some distance from her and [REDACTED] preferred to stay in the chair. She did instruct them to come, and they did respond to this. She seemed to be firm and attentive to them. She directed them to recite the alphabet, which they did, and later spell their names. She was clearly in control in the situation, yet not as affectionate or playful. At one point, they [s/c] boys attempted to leave and the grandmother instructed them to come back. She did bring out some paper and had the boys print their names. She remarked as to the need for them to

(continued)

The psychologists and social workers all opined that the twins needed stability in their lives, and that that stability would be best provided by [REDACTED]. There was general agreement, however, that it was also in the twins' best interest to maintain their relationship with their birth mother's family, mainly the grandmother and the twins' siblings who were living with the grandmother. [REDACTED] also agreed, and testified that she would help the children to keep that relationship even though her own personal relationship with the grandmother was "strained."

Although the grandmother was originally slated to be the twins' primary caregiver, and was made the twins' guardian in February of 1995, her apartment was too small to accommodate the twins and the five children who were living with her. Ultimately, in April of 1996, the procedures to find the twins a permanent home kicked in. *See* § 48.38, STATS. (permanency planning). The grandmother was told in open court in April of 1996 that if she were not prepared to make what the court records refer to as "significant progress" in assuming care for the twins that the permanency plan would then move to the termination of her daughter's parental rights to the twins and adoption. When the grandmother still could not take the children, an "adoptive resource" was sought. In mid-March of 1998, one of the social workers who testified at the termination-of-parental rights hearing told the grandmother that such a resource had been found. This spurred the grandmother to action, and she put a down payment on a house, for which, she testified, she had, with much effort, been saving. The social worker opined that

improve their penmanship. She did engage them in playing tic-tac-toe. The boys relaxed as time progressed. He did refer to the foster mother as "Mom" in [REDACTED] presence. One of the boys attempted to open her purse to explore, and she limited him from doing so. Upon departure, the foster mother did encourage the boys to return to give their grandmother a hug and kiss. One of them was reluctant to do so.

the grandmother's delay in getting larger quarters made him believe that the grandmother was not "as committed" to the twins as was the foster mother.

In an impassioned plea to the trial court, the grandmother, who was sixty-two at the time of the hearing, steadfastly asserted that she had a right to the twins because they belonged to her:

They are my grandchildren. They ain't anybody else's. They're mine, and I want them with their brothers and their sisters, and I want them with me.... We are a family, and we need to be together as a family, and I'm sorry if it took me too long, and I don't apologize for it. I did the best I could, and I'm going to keep on doing the best I can. Those are my grandchildren.

The trial court issued a brief oral decision in which he praised the foster mother for being a "godsend" for the twins:

I want you to realize that your efforts, the efforts of your family do not go unrecognized by this Court. And I am certain that you will have a lasting and lifelong imprint on the lives of these children.

But when I weigh that against the efforts of [the grandmother], the fact that she is the grandmother and guardian of these children, and although the record is -- evidence on both sides of the issue on whether or not the relationship is substantial, this Court finds that it is a substantial relationship, and I also find it would be harmful to these boys to sever that relationship. [The grandmother] never wavered in her desire or her love for her grandchildren. She has had many difficulties to overcome. When I first came on the bench, it never occurred to me that there are people out there who can essentially walk away from their children -- and I've seen a lot of that -- but this is not that kind of a case.

Although the mother clearly has abandoned or failed to assume parental responsibility for these boys -- and that's more of an indication of the effects of drugs on our society, how it can even corrupt and essentially take certain innate instincts of parenting and caring and loving and essentially throw that all away -- but [the grandmother] has been trying.

She has made every attempt to put herself in a position and at this time I just can't take that away from her.

II.

Once grounds to terminate a person's parental rights have been found to exist, the decision whether to actually terminate is vested within the trial court's sound discretion. *Brandon S. S. v. Laura S.*, 179 Wis.2d 114, 150, 507 N.W.2d 94, 107 (1993); *Gerald O. v. Cindy R.*, 203 Wis.2d 148, 152, 551 N.W.2d 855, 857 (Ct. App. 1996). A trial court's discretionary decision withstands reversal on appeal if the trial court applies the relevant facts to the correct legal standard in a reasonable way. *Brandon S. S.*, 179 Wis.2d at 150, 507 N.W.2d at 107 ("The exercise of discretion requires a rational thought process based on examination of the facts and application of the relevant law."). We review *de novo* whether the trial court has applied the correct legal standard. *Kerkvliet v. Kerkvliet*, 166 Wis.2d 930, 939, 480 N.W.2d 823, 826 (Ct. App. 1992).

The parties do not dispute the trial court's finding that grounds exist to terminate the mother's parental rights to the twins. Section 48.426(2), STATS., mandates that "[t]he best interests of the child shall be the prevailing factor considered in determining" whether to terminate a person's parental rights to that child. Indeed, "the best interests of the child is the polestar of all determinations under ch. 48." *Brandon S. S.*, 179 Wis.2d at 149, 507 N.W.2d at 107. Section 48.426(3), STATS., sets out the factors that must be considered:

In considering the best interests of the child under this section the court shall consider but not be limited to the following:

- (a) The likelihood of the child's adoption after termination.

(b) The age and health of the child, both at the time of the disposition and, if applicable, at the time the child was removed from the home.

(c) Whether the child has substantial relationships with the parent or other family members, and whether it would be harmful to the child to sever these relationships.

(d) The wishes of the child.

(e) The duration of the separation of the parent from the child.

(f) Whether the child will be able to enter into a more stable and permanent family relationship as a result of the termination, taking into account the conditions of the child's current placement, the likelihood of future placements and the results of prior placements.

The trial court's brief oral decision considered the following:

1. That "it would be harmful to these boys to sever" the "substantial relationship" between the twins and the grandmother.
2. That the grandmother "never wavered in her desire or her love for her grandchildren."
3. That the grandmother "has had difficulties to overcome."
4. That the grandmother "has been trying" to help the children.
5. That the grandmother "has made every attempt to put herself in a position" to help the children.

And, as a consequence, the trial court opined that it "just can't take that away from her."

The trial court's oral decision reveals that it considered the feelings, efforts, and desires of the grandmother as paramount. The only nod to the children was the trial court's conclusion that it was not in their interests to "sever" their relationship with their grandmother and their siblings. But that point was conceded by all, including [REDACTED]. Significantly, the trial court's focus on what

we have denominated as point one in its expressed rationale is, on its face, wrong; no one—not [REDACTED] not any of the psychologists, not any of the social workers, and not even the grandmother opined that either termination or continued placement with [REDACTED] would sever the twins' relationships with their blood relatives. Thus, absent some support in the record, and we perceive none, the trial court's apparent assumption that the twins' relationships with their blood relatives would be severed is "clearly erroneous." See RULE 805.17(2), STATS.

The trial court is in the best position to evaluate the evidence in this type of fact-intensive, emotion-laden case. See *Brandon S. S.*, 179 Wis.2d at 150, 507 N.W.2d at 107 ("A determination of the best interests of the child in a termination proceeding depends on first-hand observation and experience with the persons involved and therefore is committed to the sound discretion of the circuit court."); *Minguey v. Brookens*, 100 Wis.2d 681, 688-689, 303 N.W.2d 581, 584 (1981). Accordingly, we decline the invitation of the twins by their guardian *ad litem* to decide this case as a matter of law, and remand it to the trial court for further proceedings. See *Minguey*, 100 Wis.2d at 689, 303 N.W.2d at 584. Upon remand, the trial court must consider the twins' best interests as paramount, even if those interests supplant its natural sympathy for the grandmother and her feeling that problems can be best dealt with inside the blood-family. Whether this is true in this case or not is a decision for the trial court to make—guided by the criteria set out in § 48.426(3), STATS.

By the Court.—Order reversed and cause remanded for further proceedings.

This opinion will not be published. See RULE 809.23(1)(b)4, STATS.

313.89 Reactive Attachment Disorder of Infancy or Early Childhood

Diagnostic Features

The essential feature of Reactive Attachment Disorder is markedly disturbed and developmentally inappropriate social relatedness in most contexts that begins before age 5 years and is associated with grossly pathological care (Criterion A). There are two types of presentations. In the Inhibited Type, the child persistently fails to initiate and to respond to most social interactions in a developmentally appropriate way. The child shows a pattern of excessively inhibited, hypervigilant, or highly ambivalent responses (e.g., frozen watchfulness, resistance to comfort, or a mixture of approach and avoidance) (Criterion A1). In the Disinhibited Type, there is a pattern of diffuse attachments. The child exhibits indiscriminate sociability or a lack of selectivity in the choice of attachment figures (Criterion A2). The disturbance is not accounted for solely by developmental delay (e.g., as in Mental Retardation) and does not meet criteria for Pervasive Developmental Disorder (Criterion B). By definition, the condition is associated with grossly pathological care that may take the form of persistent disregard of the child's basic emotional needs for comfort, stimulation, and affection (Criterion C1); persistent disregard of the child's basic physical needs (Criterion C2); or repeated changes of primary caregiver that prevent formation of stable attachments (e.g., frequent changes in foster care) (Criterion C3). The pathological care is presumed to be responsible for the disturbed social relatedness (Criterion D).

Subtypes

The predominant type of disturbance in social relatedness may be indicated by specifying one of the following subtypes for Reactive Attachment Disorder:

Inhibited Type. In this subtype, the predominant disturbance in social relatedness is the persistent failure to initiate and to respond to most social interactions in a developmentally appropriate way.

Disinhibited Type. This subtype is used if the predominant disturbance in social relatedness is indiscriminate sociability or a lack of selectivity in the choice of attachment figures.

Associated Features and Disorders

Associated descriptive features and mental disorders. Certain situations (e.g., prolonged hospitalization of the child, extreme poverty, or parental inexperience) may predispose to the development of pathological care. However, grossly pathological care does not always result in the development of Reactive Attachment Disorder; some children may form stable attachments and social relationships even in the face of marked neglect or abuse. Reactive Attachment Disorder may be associated with developmental delays, Feeding Disorder of Infancy or Early Childhood, Pica, or Rumination Disorder.

Associated laboratory findings. Laboratory findings consistent with malnutrition may be present.

Associated physical examination findings and general medical conditions. Physical examination may document associated general medical conditions that might contribute to, or result from, difficulties in caring for the child (e.g., growth delay, evidence of physical abuse).

Prevalence

Epidemiological data are limited, but Reactive Attachment Disorder appears to be very uncommon.

Course

The onset of Reactive Attachment Disorder is usually in the first several years of life and, by definition, begins before age 5 years. The course appears to vary depending on individual factors in child and caregivers, the severity and duration of associated psychosocial deprivation, and the nature of intervention. Considerable improvement or remission may occur if an appropriately supportive environment is provided. Otherwise, the disorder follows a continuous course.

Differential Diagnosis

In **Mental Retardation**, appropriate attachments to caregivers usually develop consistent with the child's general developmental level. However, some infants and young children with Severe Mental Retardation may present particular problems for caregivers and exhibit symptoms characteristic of Reactive Attachment Disorder. Reactive Attachment Disorder should be diagnosed only if it is clear that the characteristic problems in formation of selective attachments are not a function of the retardation.

Reactive Attachment Disorder must be differentiated from **Autistic Disorder** and **other Pervasive Developmental Disorders**. In the Pervasive Developmental Disorders, selective attachments either fail to develop or are highly deviant, but this usually occurs in the face of a reasonably supportive psychosocial environment. Autistic Disorder and other Pervasive Developmental Disorders are also characterized by the presence of a qualitative impairment in communication and restricted, repetitive, and stereotyped patterns of behavior. Reactive Attachment Disorder is not diagnosed if the criteria are met for a Pervasive Developmental Disorder. The Disinhibited Type must be distinguished from the impulsive or hyperactive behavior characteristic of **Attention-Deficit/Hyperactivity Disorder**. In contrast to Attention-Deficit/Hyperactivity Disorder, the disinhibited behavior in Reactive Attachment Disorder is characteristically associated with attempting to form a social attachment after a very brief acquaintance.

Grossly pathogenic care is a defining feature of Reactive Attachment Disorder. An additional notation of Child Abuse, Child Neglect, or a Parent-Child Relational Problem may be warranted. When grossly pathogenic care does not result in marked disturbances in social relatedness, Child Neglect or Parent-Child Relational Problem may be noted rather than Reactive Attachment Disorder.

■ **Diagnostic criteria for 313.89 Reactive Attachment Disorder of Infancy or Early Childhood**

- A. Markedly disturbed and developmentally inappropriate social relatedness in most contexts, beginning before age 5 years, as evidenced by either (1) or (2):
- (1) persistent failure to initiate or respond in a developmentally appropriate fashion to most social interactions, as manifest by excessively inhibited, hypervigilant, or highly ambivalent and contradictory responses (e.g., the child may respond to caregivers with a mixture of approach, avoidance, and resistance to comforting, or may exhibit frozen watchfulness)
 - (2) diffuse attachments as manifest by indiscriminate sociability with marked inability to exhibit appropriate selective attachments (e.g., excessive familiarity with relative strangers or lack of selectivity in choice of attachment figures)
- B. The disturbance in Criterion A is not accounted for solely by developmental delay (as in Mental Retardation) and does not meet criteria for a Pervasive Developmental Disorder.
- C. Pathogenic care as evidenced by at least one of the following:
- (1) persistent disregard of the child's basic emotional needs for comfort, stimulation, and affection
 - (2) persistent disregard of the child's basic physical needs
 - (3) repeated changes of primary caregiver that prevent formation of stable attachments (e.g., frequent changes in foster care)
- D. There is a presumption that the care in Criterion C is responsible for the disturbed behavior in Criterion A (e.g., the disturbances in Criterion A began following the pathogenic care in Criterion C).

Specify type:

- Inhibited Type:** if Criterion A1 predominates in the clinical presentation
Disinhibited Type: if Criterion A2 predominates in the clinical presentation

**307.3 Stereotypic Movement Disorder
(formerly Stereotypy/Habit Disorder)**

Diagnostic Features

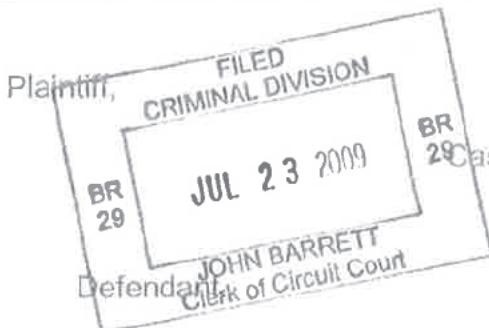
The essential feature of Stereotypic Movement Disorder is motor behavior that is repetitive, often seemingly driven, and nonfunctional (Criterion A). This motor behavior markedly interferes with normal activities or results in self-inflicted bodily injury that is significant enough to require medical treatment (or would result in such injury if

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH 29

MILWAUKEE COUNTY

STATE OF WISCONSIN,



vs.

JACOB, Clancy L.,

Case No. 08CF005889

Defendant,

STATE'S RESPONSE BRIEF TO DEFENDANT'S MOTION TO SUPPRESS STATEMENTS

PROLOGUE

Defendant, Clancy Jacobs, has asked this court to suppress his confession to the crime of Armed Robbery. The State categorically rejects his arguments and asks this court to deny Jacobs' motion.

All of Jacobs arguments will be addressed but the main thrust of his argument appears to be that he was coerced into admitting the crime of Armed Robbery when his girlfriend, **at his request**, was brought to his interrogation room. The other arguments including that the defendant was cold, didn't want the food that was offered to him, was young and suffered from mental disorders will be addressed during the course of this brief.

CONTROLLING PRINCIPLES OF LAW

Police questioning of suspected defendants is a vital component of modern law enforcement practice. The United States Supreme Court recognizes that -

The need for police questioning as a tool for effective enforcement of criminal laws cannot be doubted. Admissions of guilt are more than merely desirable, they are essential to society's compelling interest in finding, convicting, and punishing those who violate the law.

Moran v. Burbine, 475 U.S. 412, 426 (1986) (citations and internal quotation marks omitted).

Only voluntary confessions are admissible. Colorado v. Connelly, 479 U.S. 157, 166 (1986). The State must prove voluntariness by a preponderance of the evidence. Agnello, 226 Wis.2d at 182:

The test for voluntariness

is whether the confession was procured via coercive means or whether it was the product of improper pressures exercised by the police. The presence or absence of actual coercion or improper police practices is the focus of the inquiry because it is determinative on the issue whether the inculpatory statement was the product of a free and unconstrained will, reflecting deliberateness of choice.

State v. Clappes, 136 Wis.2d 222, 236, 401 N.W.2d 759 (1987) (citations and quotation marks omitted).

Coercive police activity that actually causes the defendant to confess is necessary to a finding of involuntariness under the Due Process Clause of the Fourteenth Amendment. Connelly, 479 U.S. at 164; Clappes, 136 Wis.2d at 235-36. But coercive police activity does not, in and of itself, establish involuntariness. That is because "[d]etermination of whether a statement is voluntary requires a balancing of the personal characteristics of the defendant against the coercive or improper police pressures." State v. Phell, 152 Wis.2d 523, 535, 449 N.W.2d 858 (Ct. App. 1989). This court should not undertake the balancing analysis

unless some improper or coercive police conduct has occurred. *Id.* See also Clappes, 136 Wis.2d at 239-40.

JACOBS CONFESSION WAS CONSTITUTIONALLY VOLUNTARY

Jacobs confession was subject to suppression if it was caused by improper police conduct. Distilled to its essence, Jacobs' complaint is that his confession was coerced because (1) his girlfriend who served as his false alibi to this crime was crying outside his interrogation room (2) he was cold and hungry (3) he is young (4) he suffers from a conduct disorder and was "upset and nervous" during the interrogation and (5) his leg bounced during the questioning.

Weighed against well-established principles of law, Jacobs' attempt to shed his confession must fail. The totality of the circumstances surrounding Jacobs' questioning support a finding of voluntariness.

Jacobs was questioned three times over the course of a 2 days. Breaks were taken to offer Jacobs food. Jacobs was questioned by various police detectives. The changes in faces were accompanied by renewed Miranda warnings. Jacobs executed three valid Miranda waivers and each time agreed to speak with the detectives.

Milwaukee police did not use promise, threats or violence to obtain Jacobs' confession. They did not deprive him of physical necessities or creature comforts during the questioning. He was not incoherent, intoxicated or mentally incapacitated. His answers were appropriate to the questions asked. He was not reluctant to speak with police.

In addition, his prior involvement with police in the investigation of another offense were the sorts of contacts that enabled him to cope better with the circumstances of his arrest.

This is not the first time that Jacobs has been charged with an extraordinarily serious offense. He is familiar with the criminal justice system, as evidenced by his recent three (3) convictions for Robbery. On October 27, 2008, he was sentenced on 3 counts of Robbery (case no. 08CF000539) CCAP attached [*Attachment number: 1*]. In regard to that Robbery, Jacobs admitted his involvement in an interview with City of Milwaukee Police Detective Joe Groce. That confession was used in his robbery prosecution. [*Attachment numbers: 2 & 3*] (criminal complaint and copy of interview attached). Jacobs knows from his own experience that a confession can and will be used against him in a court of law. Jacobs obviously knew that by confessing to the Armed Robbery that is currently before the court that it would be used against him. Jacobs is not a naïve defendant appearing before this court. He knows the consequences of confessing to a crime.

Jacobs also relies on a diagnostic evaluation of himself as one of his arguments that he should be allowed to rid himself of his confusion. Jacobs fails to focus on his diagnosis of Personality Disorder with Anti Social features.

Anti social personality disorder is "a pervasive pattern of disregard for, and violation of, the rights of others that begins in childhood or early adolescence and continues into adulthood." See DSM IV 301.7 Antisocial Personality Disorder [*Attachment number: 4*]. Persons with this disorder fail to conform to social norms with respect to lawful behavior, *id*. They are frequently deceitful and manipulative in order to gain personal profit or pleasure.

Id. They may repeatedly lie, use an alias, con others or malingering. *Id.* Individuals with Anti Social Personality Disorder frequently lack empathy and tend to be callous, cynical, and contemptuous of the feelings, rights and sufferings of others. It appears that this diagnosis much more illustrates Jacobs' state of mind during his interview with Detectives Beauchene and Finnegan than those which Jacobs argues contributed to his confession.

Jacobs self-serving statements during the Goodchild hearing in this matter were illustrative of his Anti Social Personality Disorder. It is unlikely that he really thought his sealed chips and soda were poisoned. It is unlikely he believed he could hear the voice of his unborn child scolding him. What is likely is that once the gravity of the consequences of committing this crime dawned on him that he desperately wanted to cast aside the confession he made to Detectives Beauchene and Finnegan. By the time of his diagnosis, the professional upon whom the defendant is now relying, has indicated the symptoms of psychosis appear atypical. Interesting. It leads one to inquire whether or not the evaluator believed Jacobs claims. The manipulative behavior, however, is a trait of his diagnosis of Antisocial personality disorder.

There is no reason for this court to condemn the manner in which was Jacobs questioned or the length of his interrogation. Jacobs complains about the impact of his contact with the deceitful holder of his alibi. Did he feel badly that he dragged Destini into this situation? He forgets that emotional and psychological tension are present in most arrest and questioning situations. Oregon v. Mathiason, 429 U.S. 492, 495 (1977) (*per curiam*). It is reasonable to expect that a man involved in the shotgun murder of his foster-father might be under significant stress. That combination of tension and compulsion does not render a confession constitutionally involuntary, although it might well lead a criminal to

voluntarily confess. See Crumel v. State, 46 Wis.2d 348, 353, 174 N.W.2d 517 (1970) ("In all except the most hardened of offenders and most skillful of dissemblers, remorse is an understandable human response or reaction. ... It is not a function of police authorities to protect a perpetrator of crimes against the promptings of his own conscience"); State v. Long, 139 N.W.2d 813, 819 (Neb. 1966) ("A confession prompted by remorse and a gnawing consciousness of guilt is not because thereof inadmissible).

Jacobs was not subjected to the kind of continuous questioning for long periods which would have been impermissibly coercive. The questioning in this case did not even approach the kind of grilling condemned as police overreaching by the United States Supreme Court, See e.g., Connelly, 479 U.S. at 163 n.1 (collecting cases in which, among other things, police interrogated defendant on medication for over eighteen hours without food or sleep; police interrogated defendant incommunicado for sixteen days in closed, windowless cell with limited food and coercive tactics; police held defendant for four days with inadequate food and medical attention; police repeatedly questioned defendant for five days using coercive tactics; relays of police questioned defendant for thirty six hours without sleep); Culombe v. Connecticut, 367 U.S. 568, 623 n.83 (1961) (similar collection of cases). See also State v. Carter, 458 A.2d 379, 383 (Conn. 1983) (collecting cases in which impermissible length of questioning is measured in days, not hours).

Instead, Jacobs' questioning more closely resembled the type of questioning deemed constitutionally permissible in Crooker v. California, 357 U.S. 433, 737 (1958) (fourteen-hour questioning not coercive when suspect permitted to eat, drink, smoke, and told he did not have to answer questions). See also Chaves v. Florida, ___ So.2d ___, 2002 WL 1065901, *10-11 (May 30, 2002) (fifty-four hours of continuous police custody with repeated

interrogation not coercive when suspect provided with creature comforts upon request, breaks in questioning, time away from police facilities, rest periods and time left alone "for quiet reflection" (collecting cases). The manner in which Jacobs was questioned was not "so offensive to a civilized system of justice that [it] must be condemned . . ." Miller v. Fenton, 474 U.S. 104, 109 (1985).

Jacobs also contends he was sleep deprived. Even if Jacobs was tired, that does not render his confession constitutionally involuntary. See State v. Verhasselt, 83 Wis.2d 647, 657-58, 266 N.W.2d 342 (1978) (defendant's failure to indicate that he was tired or sleepy militates against later claim of involuntariness). See also United State v. Casal, 915 F.2d 1225, 1229 (8th Cir. 1990), *cert. denied*, 499 U.S. 941 (1991) (fatigue does not automatically render confession involuntary; relevant inquiry is whether impairment caused defendant's will to be overborne). In Casal, the Eight Circuit upheld the district court's factual determination that police did not coerce the defendant into giving a confession, even though the defendant claimed to have gone without sleep for *five days* before confessing. *Id.* At 1229. See also Haynes v. Washington, 373 U.S. 503 (1963) (sixteen-hour interview); Harris v. South Carolina, 338 U.S. 68 (1949) (three days); Turner v. Pennsylvania, 338 U.S. 62 (1949) (five days).

Let me know revisit what has been earmarked by both the defense and the court as the most critical question to be decided: whether introducing Destini Spencer to the interrogation process coerced Jacobs into making his confession. The State strongly contends that the answer is no.

It is critical, highly consequential and determinative to remember that Jacobs used Spencer as his alibi in **both** his first interview with Detective Applegate and his second interview with Detective Zens. And, as will be discussed in short order, Spencer provided that alibi for Jacobs. In the Applegate interview, Jacobs states that Destini arrived at his home between 12 noon and 12:30 p.m. on November 20, 2008. Jacobs then chronicles his version of his days activities. He lies about Spencer's whereabouts. First, he states she was with him at his home, that they picked up Harold, that they went to his mother's home and that they picked up Destini's mother. According to Jacobs, Destini Spencer was with him during the time the armed robbery occurred.

Jacobs then gives a slightly different version of his days activities to Detective Zens. He again states that Destini arrived at his home between 12 and 12:30 p.m. But this time there are differences in his timeline. This time they drive to her house first, pick up Harold, pick up Destini's mom and then they go to Jacobs' mom's house. One could opine that it is difficult to keep the sequence straight when you leave out the Armed Robbery and later admit that Destini was not present for much of the afternoon.

The State's contention is that Jacobs very much wanted to see Destini during his **third** interrogation. He wanted to make sure that she would keep "the story" straight as to Jacobs version of the itinerary. In an almost comical moment, Jacobs relays to Applegate that he, Harold and Destini went to his mother's home but that Destini will leave that "out of her story." (VERBATIM) Of course she did, she was supplying his false alibi! He must have remembered that visiting his mother was not part of the version of events which they had rehearsed.

Destini did not help matters by supplying a false alibi for Jacobs. [*Attachment number: 5*] Could she have been charged with obstructing? Suerely. But one operates under the assumption that MPD had "bigger fish to fry," i.e., the solving of this Armed Robbery.

The initial interview of Destini Spencer certainly raised suspicions that she is not being truthful. Spencer states that she arrived at Jacobs home at approximately 11:15 a.m. on the 20th of November -- the day of the armed robbery. She goes on to detail the events of the day including going to her home, picking up Harold Johnson at 1 p.m. and then going to Mayfair Mall until about 3 p.m. She provides a timeline alibi for Jacobs showing that, according to her, he could not have committed this crime. Given the police investigation, it became obvious, that she was either lying about Jacobs' whereabouts or, even worse, she had some involvement in the planning of or knowledge about the armed robbery. She was not an innocent young pregnant woman being incarcerated in order to procure a confession from Jacobs'. She was a suspect who was, at the very least, lying about Jacobs involvement.

Miss "false alibi" Spencer then was reinterviewed. (Milwaukee Police Department supplement #15) [*Attachment number: 6*]. She initially reiterates her lies but only after being confronted with her inconsistencies does she tell the truth. She finally divulges that the defendant called her while he was out of breathe and stated, "Come to my house." "I got 10 racks." She states she she went to Jacobs' house and saw him and Johnson counting a lot of money in a shoebox. She states when she saw the money was real that she became angry and accused the defendant of killing someone for the money. Then, the only truthful

part of her initial statement comes forth as she states the group went shopping with the money that was acquired during the armed robbery. Perhaps obstructing and receiving stolen property should have been referred to the DA's office for prosecution. Police clearly could have sought charges for these two crimes. Those who are familiar with the system know that there is a difference between "police charging" and an actual charging decision made in the DA's office. The matter was not issued, as defense argues, because it could not have been charged. False. The matter could not have charged: it was never referred to the DA's office. A discretionary determination to not seek charges was made. At the time police finished their second interview of Spencer, they were just beginning their 3rd interview with Jacobs.

It is critical to note that Jacobs asks numerous times to talk to Spencer. He most likely wants to know if she has "cracked" and admitted that she was not his alibi. She had just, less than an hour earlier, finally told police the truth. Common sense tells us that only then, after evaluating her second statement, and determining whether to seek charges, would she be released.

Police Detectives were not gentle with Jacobs but that is not a requirement. This was not a social engagement. They were attempting to obtain a truthful statement from Jacobs. He begged to see Destini. Destini was brought to him crying. Destini was scared. She should have been. She just provided a false alibi for the defendant. Her presence next to his interrogation room probably let him know the gig was up. Destini had been confronted with the inconsistencies in her statements and then decided to tell the truth. When Jacobs realized the situation, he likewise, decided to tell the truth. There was no police misconduct here. Jacobs asked to see Destini. Jacobs was allowed to see Destini. Police had no

control over what she said to Jacobs that made him confess. Even if MPD thought Destini would appeal to Jacobs emotions and assist in obtaining a confession, that is permissible. "That is because "[t]he policeman is not a fiduciary of the suspect. The police are allowed to play on a suspect's ignorance, his anxieties, his fears, and his uncertainties; they just are not allowed to magnify those fears, uncertainties, and so forth to the point where rational decision becomes impossible." United States v. Rutledge, 900 F.2d 1127, 1130 (7th Cir. 1990), *cert. denied*, 498 U.S. 875 (1990). See also United States v. Washington, 431 U.S. 181, 187 (1977) ("The Constitution does not prohibit every element which influences a criminal suspect to make incriminating admissions"); Miller v. Fenton, 796 F.2d 598, 605 (3d Cir. 1986), *cert. denied sub nom., Miller v. Neubert*, 479 U.S. 989 (1986) ("[I]t is generally recognized that the statement from a suspect"); David Simon, *Homicide; A Year on the Killing Streets* 197-200 (1991) (discussion of permissible boundaries of police questioning).

Jacobs has not shown that the questioning techniques left him unable to make a rational choice whether or not to confess. That is not surprising. It is not impermissible for police to talk at length about the suspect's case in an effort to secure a confession, Turner v. State, 76 Wis.2d 1, 21-22. 250 N.W.2d 706 (1977), to refer to the suspect's family members in an effort to elicit incriminating statements, Bryant v. Vose, 785 F.2d 364, 367-68 (1st Cir. 1986), *cert. denied*, 477 U.S. 907 (1986), to "push a suspect's buttons" by focusing his attention on a point likely to elicit an emotional response, United State v. Eide, 875 F.2d 1429, 1437 (9th Cir. 1989), and Derrick v. Peterson, 924 F.2d 813, 819 (9th Cir. 1990), *cert. denied*, 502 U.S. 853 (1991), to act as "good guys" and express sympathy to the suspect, Martin v. Wainwright, 770 F.2d 918, 925-26 (11th Cir. 1985) *cert. denied*, 479

U.S. 909 (1986), Fuget v. State, 522 A.2d 1371, 1375 (Md. App. 1987) and Sotelo v. Indiana State Prison, 850 F.2d 1244, 1248-50 (7th Cir. 1988); to appeal to the suspect's strength of character, Quadrini v. Clusen, 864 F.2d 557, 584 (7th Cir. 1989); or indicate to a suspect that his cooperation would be advantageous to him or others. United States v. Ornelas-Rodriguez, 12 F.3 1339, 1347-48 (5th Cir. 1994), *cert. denied*, 512 U.S. 1222 (1994).

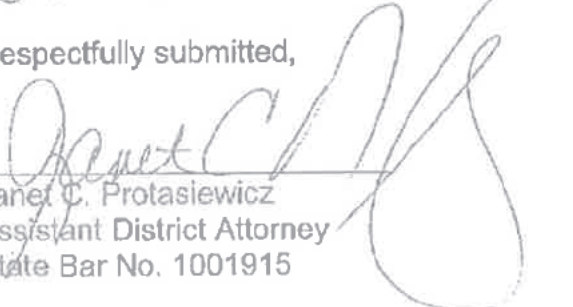
But if this court conducted the balancing, the result would be no different. When he made his confession, Jacobs was one day shy of his 18th birthday. He was experienced in dealing with police officers. He exhibited no signs of mental or emotional disorder. While Jacobs confessed after seeing Destini, Jacob was perfectly capable of deciding whether or not to speak with the officers. That he now bitterly regrets his decision is no reason to label his choice involuntary.

"Interrogation becomes constitutionally objectionable only when the circumstances prevent the person being questioned from making a rational choice." Weidner v. Thieret, 866 F.2d 958, 963 (7th Cir. 1989). That did not happen here. There is absolutely nothing in the record to suggest that Milwaukee police improperly coerced Jacobs' confession. There is nothing in the record to suggest that their interrogation techniques overpowered Jacobs' ability to resist or to make a rational decision to speak with them. There were no "overbearing inquisitorial techniques" used to secure his confession. Clappes, 136 Wis.2d at 238 (citation omitted). The circumstances surrounding the questioning show that the tactics used were not fundamentally unfair or so coercive as to overpower Jacobs' will. His confession was constitutionally voluntary.

The State respectfully requests that this court deny Jacobs' motion to suppress his statement.

Dated at Milwaukee, Wisconsin, this 23 day of July, 2009.

Respectfully submitted,



Janet C. Protasiewicz
Assistant District Attorney
State Bar No. 1001915

cc: Attorney Michael J. Hicks

Mailing Address:

Milwaukee County District Attorney's Office
821 W. State Street, Rm. 405
Milwaukee, Wisconsin 53233-1485
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State of Wisconsin vs. Clancy Louis Jacobs

Milwaukee County Case Number 2008CF000539

What is RSS?

Filing Date	Case Type	Case Status
01-30-2008	Criminal	Closed
Defendant Date of Birth	Address	
11-22-1990	[Redacted] Milwaukee, WI 53225	
Branch Id	DA Case Number	
45	08XF0665	
Case(s) Cross-Referenced With This Case		
2008CF000540		

- Ascending Date Order
- Descending Date Order

Charge(s)

Count No.	Statute	Description	Severity	Disposition
1	943.32(1)(b)	Robbery with Threat of Force	Felony E	GUILTY Due to GUILTY Plea
2	943.32(1)(b)	Robbery with Threat of Force	Felony E	GUILTY Due to GUILTY Plea
3	943.32(1)(b)	Robbery with Threat of Force	Felony E	GUILTY Due to GUILTY Plea

[View history and details of Charge\(s\)/Sentence\(s\)](#)

Defendant Owes the Court: \$ 0.00

Responsible Official	Prosecuting Agency	Prosecuting Attorney	Defense Attorney
Donagan-45, Thomas P.	District Attorney	Frisch, James W	Cleghorn, Kerri

Defendant

Defendant Name	Date of Birth	Sex	Race ¹
Jacobs, Clancy Louis	11-22-1990	Male	African American
Address			Address Updated On
[Redacted] Milwaukee, WI 53225			01-30-2008

JUSTIS ID	Finger Print ID
70059370	

Defendant Attorney(s)

Attorney Name	Entered
Cleghorn, Kerri	02-26-2008

Total Receivables

Court Assessments	Adjustments ³	Paid to the Court	Probation/Other Agency Amount ⁴	Balance Due to Court	Due Date ⁵
\$ 834.99	\$ 0.00	\$ 834.99	\$ 0.00	\$ 0.00	

- ¹ The designation listed in the Race field is subjective. It is provided to the court by the agency that filed the case.
- ² Non-Court activities do not require personal court appearances. For questions regarding which court type activities require court appearances, please contact the Clerk of Circuit Court in the county where the case originated.
- ³ Includes collection agency fees; bankruptcy discharge of debt; Department of Revenue collection fees; and forgiven debts due to indigence, death, time served, or community service.
- ⁴ Some amounts assessed by the courts are collected by the Department of Corrections or other agencies. This column is rarely updated by the courts and may be less than the actual amount owed.
- ⁵ For cases with multiple assessments, the due date represents the assessment with the latest date.

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State of Wisconsin vs. Clancy Louis Jacobs

Milwaukee County Case Number 2008CF000539

Court Record Events

What is RSS?

	Date	Event	Court Official	Court Reporter
1	01-30-2008	Complaint filed		
2	01-30-2008	Notes Additional Text: Defendant In Custody, Court appearance today in Intake Court, Room 137A.		
3	01-30-2008	Initial appearance Event Party Jacobs, Clancy Louis Additional Text: Defendant Clancy Louis Jacobs in court with attorney Richard J Carpenter. Defendant Clancy Louis Jacobs in custody. Carole R Manchester appeared for the State of Wisconsin. Defendant is advised this case is assigned to Judge Donegan, Branch 45. Defendant given a copy of complaint and advised of maximum penalties, right to counsel and right to a preliminary hearing. Court reviewed complaint and found probable cause to hold defendant for further proceedings. DEFENDANT IS INDIGENT AND PUBLIC DEFENDER WILL PROVIDE COUNSEL. Case is adjourned for preliminary hearing in Branch PE. kmp	Dallet, Rebecca F	CD Recording
4	01-30-2008	Cash bond set Event Party Jacobs, Clancy Louis Amount \$ 20000.00 Additional Text: Signed and filed, No Contact Order. Defendant to have no contact with Ned's Pizza at 3100 W. Capiol Dr., #1 Chinese Restaurant at 2512 W. Appleton Ave., [REDACTED]	Dallet, Rebecca F	CD Recording
5	01-30-2008	Notes Event Party Jacobs, Clancy Louis Additional Text: Preliminary hearing scheduled for 02-06-2008 at 01:30 pm.	Dallet, Rebecca F	CD Recording
6	02-07-2008	Notes Additional Text: Case was originally scheduled on 2/6/08, but due to the snow storm and the courthouse complex closure case will be rescheduled for Status on 2/13/08 at 8:30am, Branch PE. sbs		

7	02-08-2008	Notes	Dallet, Rebecca F	Czerniejewski, Nancy
		Event Party		
		Jacobs, Clancy Louis		
		Additional Text:		
		Court orders case adjourned for CAUSE from February 6, 2008, due to snow storm.		
8	02-13-2008	Adjourned hearing	Phillips, Barry	Palis, Karen
		Event Party		
		Jacobs, Clancy Louis		
		Additional Text:		
		Defendant Clancy Louis Jacobs in court, in custody. Nicole Loeb for James W Frisch appeared for the State of Wisconsin. sbs		
		Attorney Kerri Cleghorn is in trial at Children's Court Center and unable to attend today's hearing. Court ordered case adjourned for Preliminary Hearing on 2/26/08 at 1:30pm, Branch PE.		
9	02-26-2008	Preliminary hearing	Phillips, Barry	Janowski, Kelly
		Event Party		
		Jacobs, Clancy Louis		
		Additional Text:		
		Defendant Clancy Louis Jacobs in court with attorney Kerri Cleghorn. Defendant Clancy Louis Jacobs in custody. Warren Zier for James W Frisch appeared for the State of Wisconsin. sbs		
		Preliminary hearing proceeded. Sworn for the state: #1. Joe Grace, MPD Detective. #2. Mitchell Ward, MPD Detective. State rests. Defense rests. Defense motion to dismiss argued and denied. Court found probable cause and bound defendant over for trial. Original information received and filed; defendant given a copy, waived reading, was arraigned in open court and plead not guilty. Defendant is advised this case is assigned to Judge Donegan, Branch 45. Court ordered case adjourned for Scheduling Conference on 3/5/08 at 8:30am, Branch 45.		
10	03-04-2008	Other papers		
		Additional Text:		
		FILED, Demand for Discovery. j.kap		
11	03-05-2008	Bail/bond hearing	Donegan-45, Thomas P.	Pahman, Denise
		Additional Text:		
		Attorney Kerri Cleghorn appears for the defendant. Defendant, Clancy Louis Jacobs not in court, in custody. James Frisch appears for the State of Wisconsin.		
		Defendant's appearance is waived. Bail argued. Court modifies bail to \$5,000.00 cash. Defense requests a status date.		
		STATUS set for 4/8/2008 at 8:30 a.m. in Branch 45. j.kap		
12	03-05-2008	Cash bond set		
		Event Party	Amount	
		Jacobs, Clancy Louis	\$ 5000.00	
13	03-05-2008	Other papers		
		Additional Text:		
		FILED, E-mail from Judge Cimpl. j.kap		
14	04-08-2008	Status conference	Donegan-45, Thomas P.	Off the Record
		Additional Text:		
		Attorney Kerri Cleghorn, by phone, appears for the defendant. Defendant, Clancy Louis Jacobs not in court, in custody. Patricia McGowan for James Frisch appears for the State of Wisconsin.		
		Defense requests a PGP date.		

PROJECTED GUILTY PLEA set for 5/8/2008 at 1:30 p.m. in Branch 45. j.kap

15	05-08-2008	Adjourned hearing	Donegan-45, Thomas P.	Off the Record
<p>Event Party Jacobs, Clancy Louis</p> <p>Additional Text: Attorney Kerri Cleghorn in court, defendant Clancy Louis Jacobs not in court, in custody. James W Frisch appeared for the State of Wisconsin. Deputy court clerk: aac. Defendant not produced for purposes of this hearing. Defense requesting an adjourned plea hearing just received discovery, and not ready to go forward as to the plea. Court grant request. Court ordered case adjourned for projected guilty plea in Branch 45.</p>				
16	05-08-2008	Order to produce	Donegan-45, Thomas P.	Off the Record
<p>Event Party Jacobs, Clancy Louis</p> <p>Additional Text: COURT ORDERED DEFENDANT PRODUCED FROM HOUSE OF CORRECTION FOR PURPOSES OF THE PROJECTED GUILTY PLEA IN BRANCH 45. Plea hearing scheduled for 05-30-2008 at 09:00 am.</p>				
17	05-29-2008	Status conference	Donegan-45, Thomas P.	Off the Record
<p>Additional Text: Attorney Kerri Cleghorn appears for the defendant. Defendant, Clancy Jacobs not in court, in custody. James Frisch appears for the State of Wisconsin.</p> <p>Parties thought this case was on the calendar for today. Court had case calendared for tomorrow. Defense now requests a jury trial. Motions in limine, jury instructions and witness lists to be filed by the pretrial date.</p> <p>Court CANCELS the 5/30/2008 court date. FINAL PRETRIAL set for 7/28/2008 at 8:30 a.m. in Branch 45. JURY TRIAL set for 8/25/2008 at 9 a.m. in Branch 45. j.kap</p>				
18	07-17-2008	Cash bond posted		
<p style="text-align: right;">Amount \$ 5000.00</p> <p>Additional Text: 08RM034607, actual bond posted with Sheriff 07/09/08. saw</p>				
19	07-25-2008	Letters/correspondence		
<p>Additional Text: from Michael Thomas Sr. FILED. j.kap</p>				
20	07-28-2008	Final pre-trial	Donegan-45, Thomas P.	Off the Record
<p>Additional Text: Attorney Kerri Cleghorn appears for the defendant. Defendant, Clancy Jacobs appears, not in custody. Aaron Hall appears for the State of Wisconsin.</p> <p>Parties remain in trial posture.</p> <p>JURY TRIAL remains on the calendar for 8/25/2008 at 9 a.m. in Branch 45. j.kap</p>				
21	08-04-2008	Letters/correspondence		
<p>Additional Text: from John Jacobs FILED. j.kap</p>				
22	08-25-2008	Amended	Donegan-45, Thomas P.	

23 08-25-2008 Plea hearing Donegan-45, Thomas P. Nelson (Tromp), Kathy

Additional Text:

Attorney Kerri Cleghorn appears for the defendant. Defendant, Clancy Louis Jacobs appears, not in custody. James Frisch appears for the State of Wisconsin.

Court AMENDS:

COUNT 2 to: Robbery with Threat of Force, PTAC [Class E Felony], WI st. sec. 943.32(1)(b) and 939.05, upon motion of the state.

COUNT 3 to: Robbery with Threat of Force, PTAC [Class E Felony], WI st. sec. 943.32(1)(b) and 939.05, upon motion of the state.

Defendant was advised of constitutional rights and maximum penalties, waived all rights, plead GUILTY and was examined as to the plea. Plea Questionnaire/Waiver of Rights and Addendum received and filed. Parties stipulate to the complaint as a factual basis for the plea. COURT FINDS DEFENDANT GUILTY as charged in the Information as to COUNT 1 and as AMENDED as to COUNTS 2 and 3.

Victim notification needed.

Voting rights warnings given.

FILED, Ineligible Voting Notice and Acknowledgement.

SENTENCING set for 10/27/2008 at 1:30 p.m. in Branch 45. j.kap

24 08-25-2008 Charge amended

25 08-25-2008 Charge amended

26 10-27-2008 Sentencing hearing Donegan-45, Thomas P. Janowski, Kelly

Event Party

Jacobs, Clancy Louis

Additional Text:

Defendant Clancy Louis Jacobs in court with attorney Kerri Cleghorn. DeAnn L Heard appeared for the State of Wisconsin.

Deputy Court Clerk kmh.

Statements made as to sentencing.

AS TO ALL COUNTS - The Court sentenced the defendant to a MAXIMUM TERM OF IMPRISONMENT of 8 YEARS, CONCURRENT with all counts, with credit for 174 days time served; the INITIAL TERM OF CONFINEMENT in the Wisconsin State Prison System is 3 YEARS; the MAXIMUM TERM OF EXTENDED SUPERVISION is 5 YEARS. The defendant is eligible for the Challenge Incarceration Program and the Earned Release Program.

As to the initial confinement, court costs, fines, surcharges, and restitution are to be paid through collection by the Department of Corrections from 25% of funds under Sec. 973.05(4)(b) and as a condition of extended supervision.

As to extended supervision, same conditions apply as set in probation.

The Court STAYED the above sentence and placed the defendant on probation for a period of 3 YEARS, concurrent with all counts, with the following conditions:

- 1) Commit no new law violations arising to the level of probable cause.
- 2) Cooperate with Probation Department/Agent.
- 3) Write Letter of Apology to the victims of each count to be submitted to your probation agent at the first meeting.
- 4) No contact with any Ned's Pizza or No. 1 Chinese Restaurant.
- 5) Cooperate and participate with AODA and complete any recommended treatment, including random tests.
- 6) No use or possession of alcohol, illegal drugs, drug paraphernalia - absolute sobriety.
- 7) No contact with known drug dealers or drug houses.
- 8) Seek and maintain full time employment/school or a combination of both.
- 9) Pay restitution as follows: COUNT 1 - \$49.15 to Ned's Pizza, COUNT 2 - \$69.80 to No. 1 Chinese Restaurant, and pay restitution jointly and severally on COUNT 3 - \$51.90 to Ned's Pizza; for a total of \$170.80
- 10) Provide a DNA sample and pay surcharge.

27 10-27-2008 Sentencing hearing Donegan-45, Thomas P. Janowski, Kelly

Event Party

Jacobs, Clancy Louis

Additional Text:

Sentencing continued -

11) Perform 60 hours of community service (20 hours for each count).
 12) Pay all remaining costs, surcharges and assessments.
 Court costs, fines, surcharges, and restitution to be paid by a minimum of regular monthly payments in an amount deemed appropriate by the probation officer.
 The Court advised the defendant that as a convicted felon he may not vote until his civil rights are restored and he may never possess a firearm.
 Filed,
 Written Explanation of Determinate Sentence;
 Notice of Right to Seek Postconviction Relief;
 Pretrial Incarceration Credit.

28	10-27-2008	Dispositional order/judgment	Donegan-45, Thomas P.
29	11-21-2008	Cash bond applied	
		Amount	
		\$ 560.94	
		Additional Text:	
		08A 034674	
30	11-21-2008	Cash bond applied	
		Amount	
		\$ 28.05	
		Additional Text:	
		08A 034675	
31	11-21-2008	Cash bond applied	
		Amount	
		\$ 123.00	
		Additional Text:	
		08A 034676	
32	11-21-2008	Cash bond applied	
		Amount	
		\$ 123.00	
		Additional Text:	
		08A 034686	
33	11-21-2008	Judgment of conviction	
34	01-05-2009	Notes	
		Additional Text:	
		Bail notice & aff. mailed to surety, Rosieann J.	
35	02-03-2009	Notice	
		Additional Text:	
		DOC notice of case status change.	
		Probation/Extended Supervision status:	
		(X) Revoked () Discharged	
		Effective date: 01-18-2009 Initials: AAC	

[Return to Case 2008CF000539](#)

Att: 2

TEAM 4

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STATE OF WISCONSIN CIRCUIT COURT MILWAUKEE COUNTY CRIMINAL DIVISION

STATE OF WISCONSIN

Plaintiff

CRIMINAL COMPLAINT

vs.

Jacobs, Clancy Louis

Complaining Witness:

Milwaukee, Wisconsin 53225
(D.O.B. : November 22, 1950)

[Handwritten signature]

DA Case Number: 08XP0655
Circuit Court Case Number:

Powell, Isalah Rufus

Milwaukee, Wisconsin 53222
(D.O.B. : October 5, 1990)

Defendant(s)

08XP00540

THE ABOVE NAMED COMPLAINING WITNESS BEING DULY SWORN SAYS THAT THE ABOVE NAMED DEFENDANT(S) IN THE COUNTY OF MILWAUKEE, STATE OF WISCONSIN.

COUNT 01: ROBBERY - THREAT OF FORCE, PARTY TO A CRIME (As to Defendant Clancy Jacobs)

On January 11, 2008, at [redacted] City of Milwaukee, as party to a crime, with intent to steal, did take property from the presence of [redacted] (Ned's Pizza), the owner, by threatening the imminent use of force against the person of [redacted] with intent thereby to compel the said owner to acquiesce in the taking or carrying away of said property, contrary to Wisconsin Statutes Section 943.32(1)(b) and 939.05.

COUNT 02: ROBBERY - ARMED, REASONABLE BELIEF, THREAT OF FORCE, PARTY TO A CRIME (As to Defendant Clancy Jacobs)

On January 19, 2008, at [redacted] City of Milwaukee, as party to a crime, with intent to steal, by the use or threat of use of any article used or fashioned in a manner to lead the victim to reasonably believe that it is a dangerous weapon did take property from the presence of [redacted] (Number 1 Chinese Restaurant), the owner, by threatening the imminent use of force against the person of [redacted] with intent thereby to compel the said owner to acquiesce in the taking or carrying away of said property, contrary to Wisconsin Statutes Section 943.32(1)(b) & (2) and 939.05.

COUNT 03: ROBBERY - ARMED, REASONABLE BELIEF, THREAT OF FORCE, PARTY TO A CRIME (As to Defendants Isalah Powell and Clancy Jacobs)

On January 25, 2008, at [redacted] City of Milwaukee, as party to a crime, with intent to steal, by the use or threat of use of any article used or fashioned in a manner to lead the victim to reasonably believe that it is a dangerous weapon did take property from the presence of [redacted] (Ned's Pizza), the owner, by threatening the imminent use of force against the person [redacted] with intent thereby to compel the said owner to acquiesce in the taking or carrying away of said property contrary to Wisconsin Statutes Section 943.32(1)(b) & (2) and 939.05.

AS TO COUNT 01:

Upon conviction of this charge, a Class E Felony, the maximum possible penalty is a fine of not more than \$50,000 or imprisonment for not more than 15 years or both.

AS TO COUNT 02:

Upon conviction of this charge, a Class C Felony, the maximum possible penalty is a fine of not more than \$100,000 or imprisonment for not more than 40 years or both.

AS TO COUNT 03:

Upon conviction of this charge, a Class C Felony, the maximum possible penalty is a fine of not more than \$100,000 or imprisonment for not more than 40 years or both.

Complainant is a City of Milwaukee Police Detective and bases this complaint on information and belief as well as upon the official and regularly maintained City of Milwaukee Police Department reports, prepared by various members of that department.

A report prepared by Detective Sharon Hess indicates that she has interviewed a man identifying himself as [REDACTED] states that, he is employed by Ned's Pizza at 3100 West Capitol Drive, in the City and County of Milwaukee. He stated that he was employed by and on duty with that restaurant on January 11, 2008 when during the evening hours he was given assignment to make a delivery of a pizza. The location of the delivery was in the 3700 block of North 19th Place, in the City and County of Milwaukee. He stated that the order was for three pizzas, and the amount due was in the approximate amount of \$50. He stated that he parked his vehicle on North 19th Place in order to make the delivery of pizza. He called the telephone number, which had been on the delivery ticket and identified himself as being from Ned's Pizza. He spoke with a man and informed that man over the phone that he had the delivery and that he was walking up to the door with the delivery. [REDACTED] reported that he got out of his vehicle and was pulling the pizzas out of the front passenger seat of his vehicle when he observed a man walking past on the sidewalk. While pulling the pizzas out of his vehicle, [REDACTED] stood up and heard a voice behind him telling him, "Just put them down and everything will be alright." [REDACTED] turned around and observed the same man that he had seen on the sidewalk was now standing behind him and demanding that he put the pizzas down. He again asked the man "Who is going to pay for these?" The man again told him, "Just put them down." [REDACTED] stated he now realized with the second command for the pizzas that he was being robbed. He stated that the male subject kept his hands in his coat pockets during the incident. Although he [REDACTED] did not observe the weapon, he did believe based upon the subject's statement that everything would be all right as long as he complied with the subject's demand. He feared that the subject, may actually have had some type of weapon in his pocket. He then placed the three pizzas on a snow bank, got back into his car, and drove away from the scene.

Complainant is informed by report prepared by Detective Joe Groce that on January 26, 2008, he interviewed the above-named defendant, Clancy Jacobs, who upon being advised of his Miranda rights, stated he understood and waived them. Mr. Jacobs was interviewed concerning his involvement in several robberies including those described in this complaint. Regarding the January 11, 2008 robbery as described above of the Ned's Pizza Delivery person, [REDACTED] the defendant stated that he, Mr. Jacobs, had placed the pizza order for the delivery of pizza at [REDACTED] in said city on January 11, 2008. He stated that he used a cell phone to make the call. When the delivery driver arrived at that location, the driver got out of the car. Mr. Jacobs stated that he said to the driver, "I just want the pizzas." The driver set the food down and got back in his car. Mr. Jacobs stated that he then went into the house and everybody in the house ate some pizza.

Complainant is informed by a report prepared by Detective Joe Groce that on January 19, 2008 at 9:55 p.m. he was sent to investigate another armed robbery which reportedly had occurred that evening in the vicinity of [REDACTED] in said city and county. This report concerned a robbery of a delivery person from the Number 1 Chinese Restaurant at that location. While the restaurant is located at 7512 West Appleton Avenue, the delivery and robbery occurred that evening as described above at [REDACTED]

She stated that she was taking telephone orders that evening, when at about 8:47 p.m. a food order was called in to the restaurant with telephone number [REDACTED]. The man who placed the order asked if the restaurant delivered food to the area of 3700 North 19th Street. She responded yes, the man ordered three orders of Orange Chicken, two orders of Sweet and Sour Chicken, two orders of Shrimp Fried Rice and one order of Beef Fried Chicken, having a total value of \$69.80. The male caller wanted the food delivered to [REDACTED]. [REDACTED] stated that he took the food order from the Number 1 Chinese Restaurant and using his personal car drove it to the 3700 block of North 19th Street. He used a cell phone to call the number from which the order had been placed. A male answered and told him that the correct address was [REDACTED]. [REDACTED] then drove around the block and parked in front of [REDACTED]. He then called the same telephone number but nobody answered. He got out of his car with the food and walked up to the porch and knocked on the front door and rang the bell. He did not receive an answer, turned around, and was walking back to his car when he was approached by a male suspect having a gun in his left hand. That man pointed the gun along his left leg and stated, "Put the food down, get in your car, and drive off." [REDACTED] did what the man said and did place the food down in the street. [REDACTED] then got into his car and drove away. Detectives Groce and Ward went to the address of [REDACTED] and made contact with a woman who stated she lived there and that nobody from the residence had ordered any Chinese food that night. She explained that at about 8 or 9 p.m. the doorbell did ring. She opened the door and saw a man in the street very close to another man and it appeared that they were exchanging words. One man then got into his car and drove away. She then asked the young black male who was still there if he had rung her bell. The black male who had his first face turned away from her said, "No one rang your doorbell." The man then appeared to pick up a box of food and began running southbound toward Nash Street, then west onto Nash Street.

Another report prepared by Detective Groce indicates that as described above on January 26, 2008, he interviewed the above-named defendant, Clancy Jacobs, concerning his involvement in a series of robberies and specifically asked him questions about this robbery having occurred on January 19, 2008 at [REDACTED] in said city. In the course of that interview, concerning the robbery of the Chinese restaurant delivery driver, the said Mr. Jacobs stated that he had used his mother's cell phone to call in the food order. He asked that the food be delivered to [REDACTED]. When the delivery driver was at that location, the defendant, Mr. Jacobs, walked up to the man and the man looked like he was scared. Mr. Jacobs stated that he told the man, "I just want the food." The man then put the food down, got back in his car and drove off. Mr. Jacobs stated he then picked the food up. He stated that a lady at that house had asked him if he had rung her doorbell and he stated, "No." Mr. Jacobs stated he then went back to his home with the food and everybody in the house ate some. Nobody in the house knew that he had taken the food from the delivery driver.

A report prepared by Detective Dale Bormann indicates that on January 25, 2008 at 4:30 p.m. he was called to assist in investigating another armed robbery complaint involving a delivery person employed by Ned's Pizza of 3100 West Capitol Drive. He interviewed adult [REDACTED] who identified himself as being a delivery driver for Ned's Pizza. He stated that a short time earlier that evening of January 25, 2008, he had arrived at [REDACTED] where a man had placed a pizza order earlier in the day. He pulled in front of the house and got on his telephone and began talking to the person who had placed the order. He then parked his vehicle at [REDACTED] which is a side address of the same building located at [REDACTED] also in said city and county. He walked up to the residence and noticed two men walking northbound in the 3500 block of North 20th Street towards him. The subjects walked up to him with their hands in their coat pockets and demanded that he drop the

he began walking toward the front of his car because he thought he was going to be shot. He stated that the subjects walked up to the bag of pizzas and then began walking away. [redacted] stated he got into his vehicle and started to follow the subjects with the pizzas. However, one subject stopped and turned around to look at him, at which time he put his car in reverse and drove away. Detective Bormann also interviewed [redacted] who further identified himself as another employee of Ned's Pizza. Concerning the January 25, 2008 armed robbery as described by [redacted] stated that she had been working at Ned's when the pizza order came in. It arrived at about 12:50 p.m. by a person identifying himself as Chris. Caller ID showed that it was a cell phone call and Chris had given the number of [redacted] and the address of [redacted]. A short time later, the same subject called back and added one additional pizza to the original order. The order was then prepared and given to [redacted] to be delivered to [redacted]. He again called the number from which the order had been placed to verify that the order had been made at about 2:05 p.m., and spoke to a female at that number who stated that she had not placed the order. Detective Bormann's report indicates that the telephone number used in that order [redacted] was the same number used in the armed robbery of the Chinese food delivery person as described above.

Regarding the January 25, 2008 armed robbery of [redacted] the employee of Ned's Pizza, the above report of Detective Groce indicates that during his interview on January 26, 2008 of the defendant, Mr. Jacobs, concerning his involvement in a number of robberies, he also interviewed Mr. Jacobs concerning his involvement in the reported armed robbery occurring on January 25, 2008 of [redacted] at [redacted]. During that interview, Mr. Jacobs stated that he was involved in that robbery along with the co-defendant Isaiah Powell. He stated that Mr. Powell was at his house and that he and Mr. Powell were hungry and did not have any money. The two of them came up with a plan to order some pizzas from Ned's Pizza. They planned to take the pizzas from the delivery driver. Mr. Jacobs stated that he used his mother's cell phone, which is [redacted] and called in the order to Ned's Pizza. He stated they ordered four pizzas and an order of garlic bread. He did not have the order delivered to his house, but had it delivered to a location near his home. He did not want anybody at his home to know what he and Mr. Powell were doing. He stated that the driver, a black male, was walking up to the house in the vicinity of 20th and Finn Place. Mr. Jacobs stated that he and Mr. Powell were walking side by side and approached the man and they both said, "Just give us the pizzas." He stated that Mr. Powell could have said something else but he didn't remember. He stated that the man dropped the pizzas, got back in his car. He stated that he grabbed the pizzas and he and Mr. Powell walked off. Mr. Jacobs stated that he went back to his house and everybody in the house. He stated that he pizzas were in a red warmer. He insisted that neither he nor Mr. Powell had implied that they had a gun.

A report prepared by Detective Mitchell Ward, indicates that on January 26, 2008 he interviewed the above defendant, Isaiah Powell, who upon being advised of his Miranda rights stated he understood and waived them. Regarding the above-described January 25, 2008 armed robbery of [redacted] at [redacted] Mr. Powell stated that he and Mr. Jacobs had taken the pizzas from the pizza man. He stated that Mr. Jacobs had used the telephone and placed the order. He stated that when the pizza delivery driver arrived, he and Mr. Jacobs approached the driver. Mr. Powell stated that he and Mr. Jacobs were each wearing black hooded sweatshirts with the hoods up. They also were "acting like they had guns." Mr. Powell stated that he was acting as a lookout for Mr. Jacobs when Mr. Jacobs told the victim, put the pizzas down before he "Put holes in him." The victim then placed the pizzas down and ran around the back of his car and pulled on the door handles in the back seat of his vehicle. He stated the victim was running like he was scared. Once the driver had placed the pizzas

at [redacted] Mr. Jacobs father let them into the apartment. They then retrieved

Att: 3

Incident Report MILWAUKEE POLICE DEPT

2333 N. 49TH ST
Milwaukee, WI 53210

(414) 935-7502

080260022
DRAFT

Supplement No
0001

Reported Date
01/25/2008
Nature of Call
ROBBRYARM
Officer
GROCE, JOE A

Administrative Information							
Agency	Incident No	Supplement No	Reported Date	Reported Time	CAD Call No		
MILWAUKEE POLICE DEPT	080260022	0001	01/25/2008	05:50	080250829		
Status	Nature of Call						
REPORT TO FOLLOW	ROBBERY ARMED						
City	ZIP Code	Rep Dist	District	Squad	From Date	From Time	
MILWAUKEE	53206	2025	5	528	01/11/2008	20:35	
Officer	Assignment			Entered by			
007129/GROCE, JOE A	CIB - VIOLENT CRIMES - EARLY			016167			
Assignment	Property?	Approving Officer		Approval Date			
CENTRAL RECORDS DIVISION	None						
Approval Time							
Modus Operandi							
Crime Code(s)							
ROBBERY							
Supplement							

This supplemental report is being dictated by Detective Joe GROCE, assigned to the Criminal Investigation Bureau, Early Shift.

On January 25, 2008, at 11:40 p.m., Clancy L. JACOBS (B/M, DOB: 11/22/1990) and Isaiah POWELL (B/M, DOB: 10/5/1990) were taken into custody at [redacted] as suspects involved in several robberies of food delivery people.

On January 26, 2008, I, Detective Joe GROCE, interviewed Mr. JACOBS, and the interview was conducted in room 408, which is located on the fourth floor, inside of the Criminal Investigation Bureau, within the Police Administration Building, located at 749 West State Street.

Prior to asking Mr. JACOBS any questions, I read him his constitutional rights from the State of Wisconsin Department of Justice constitutional rights card. Mr. JACOBS stated that he understood his rights, and he agreed to make a statement.

It should be noted that the interview with Mr. JACOBS was recorded using a voice digital recorder. The recording was started at 2:52 a.m., and Mr. JACOBS was read his rights at 2:44 a.m. The interview was concluded at 3:43 a.m., and a copy of the interview was downloaded onto a compact disc, and the disc was later placed on Milwaukee Police Department property inventory no. 410695.

It should be noted that during the course of the interview, Mr. JACOBS was not handcuffed, and he was not restrained by any type of restraints. In addition, I, Detective Joe GROCE, was not armed during the interview.

Regarding the armed-robbery case filed under incident number 08-025-0112, the armed robbery of the NED'S PIZZA delivery driver which occurred on January 25, 2008, at 3:30 p.m. at [redacted] JACOBS stated that he was involved in the robbery along with Isaiah POWELL. JACOBS stated that Isaiah was at his house, and he and Isaiah were hungry, and they did not have any money. He stated that the two of them came up with a plan to order some pizzas from Ned's Pizza, and then they were going to take the pizzas from the delivery driver.

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0001

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JACOBS stated that he used his mother's cell phone, which is [REDACTED] and he called in the order to Ned's Pizza, and he ordered four pizzas and an order of garlic bread. JACOBS stated that he did not have the order delivered to his house; he had the order delivered to a location near his home. JACOBS stated that he did not want anyone in the house to know what he and Isaiah were doing. He stated that he and Isaiah saw the Ned's Pizza delivery driver on 20th and Finn Place. He stated that the driver was a black male, and the male was walking up to a house. JACOBS stated that he and Isaiah were walking side by side, and they approached the male, and they both said, "Just give us the pizzas." JACOBS stated that Isaiah could have said something else, but he does not remember what Isaiah said. JACOBS stated that neither he nor Isaiah implied that they had a gun. JACOBS stated that the man dropped the pizzas and got back in his car. JACOBS stated that he grabbed the pizzas, and he and Isaiah walked off. JACOBS stated that he went back to his house, and everybody in the house ate some of the food. JACOBS stated that the people in the house knew that he had ordered pizzas, but they thought that he had paid for them.

JACOBS stated that although he made the phone call from his mother's cell phone, he didn't think that the incident was going to be investigated because it was just food that he had taken. JACOBS stated that the pizzas were in a red pizza warmer. He stated that he threw the warmer in the garbage outside of his house. JACOBS further stated that before the robbery, he told Isaiah not to be aggressive, just to tell the person to give him the food.

Regarding the robbery case filed under incident number 08-021-0113, the robbery of the Pizza Hut delivery driver which occurred on January 21, 2008, at 3:50 p.m. at [REDACTED]

[REDACTED] JACOBS stated that he does not know anything about the robbery, and he did not commit the robbery. It should be noted that the robbery was called in from telephone number [REDACTED]

[REDACTED] JACOBS stated that he does not recognize this number.

Regarding the armed-robbery case filed under incident number 08-020-0001, the armed robbery of the NO. 1 CHINESE RESTAURANT delivery driver which occurred on January 19, 2008, at [REDACTED] JACOBS stated that he used his mother's cell phone to call in the food order. JACOBS stated that he asked for the order to be delivered to [REDACTED]

[REDACTED] JACOBS stated that when the delivery driver was at the location, he walked up to the man, and the man looked like he was scared. JACOBS stated that he was not armed with a gun, and he said to the man, "I just want the food." JACOBS stated that the man put the food down, and he got back in his car and drove off. JACOBS stated that he then picked the food up. JACOBS stated that a lady at the house at [REDACTED] asked him if he had rung her doorbell, and JACOBS said "no." JACOBS stated that he then went back to his home with the food, and everybody in the house ate some of it. JACOBS stated that no one in the house knew that he had taken the food from the delivery driver. JACOBS stated that after everybody in the house ate the food, the bags and the containers were thrown in the garbage outside.

Regarding the armed-robbery case filed under incident number 08-026-0022, the armed robbery of the Ned's Pizza delivery driver which occurred on January 11, 2008, at [REDACTED]

[REDACTED] JACOBS stated that he did call in the pizza order. JACOBS stated that he had bought a blue RAZR cell phone earlier that day with cell phone number [REDACTED]. He stated that he placed the order from that phone. JACOBS stated that when the delivery driver arrived at the location, the driver got out of the car. JACOBS stated that he said to the driver, "I just want the pizzas." JACOBS stated that the driver set the food down and got back in his car. JACOBS stated that he then went into the house, and everybody in the house ate some of the pizza.

Regarding the armed-robbery case filed under incident number 07-222-0198, the armed robbery of the No. 1 Chinese Restaurant delivery driver which occurred on August 10, 2007, at [REDACTED] JACOBS stated that he does not know anything about the robbery, and

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that he did not commit it. He stated that he does not know anyone on 9th Street.
JACOBS could not provide anything further.

Report dictated by Detective Joe A. GROCE (PeopleSoft no. 007129, location code 92).

JAG:jwk 1/26/2008

A# : 4

■ Diagnostic criteria for 301.22 Schizotypal Personality Disorder

A. A pervasive pattern of social and interpersonal deficits marked by acute discomfort with, and reduced capacity for, close relationships as well as by cognitive or perceptual distortions and eccentricities of behavior, beginning by early adulthood and present in a variety of contexts, as indicated by five (or more) of the following:

- (1) ideas of reference (excluding delusions of reference)
- (2) odd beliefs or magical thinking that influences behavior and is inconsistent with subcultural norms (e.g., superstitiousness, belief in clairvoyance, telepathy, or "sixth sense"; in children and adolescents, bizarre fantasies or preoccupations)
- (3) unusual perceptual experiences, including bodily illusions
- (4) odd thinking and speech (e.g., vague, circumstantial, metaphorical, overelaborate, or stereotyped)
- (5) suspiciousness or paranoid ideation
- (6) inappropriate or constricted affect
- (7) behavior or appearance that is odd, eccentric, or peculiar
- (8) lack of close friends or confidants other than first-degree relatives
- (9) excessive social anxiety that does not diminish with familiarity and tends to be associated with paranoid fears rather than negative judgments about self

B. Does not occur exclusively during the course of Schizophrenia, a Mood Disorder With Psychotic Features, another Psychotic Disorder, or a Pervasive Developmental Disorder.

Note: If criteria are met prior to the onset of Schizophrenia, add "Premorbid," e.g., "Schizotypal Personality Disorder (Premorbid)."

Cluster B Personality Disorders

301.7 Antisocial Personality Disorder

Diagnostic Features

The essential feature of Antisocial Personality Disorder is a pervasive pattern of disregard for, and violation of, the rights of others that begins in childhood or early adolescence and continues into adulthood.

This pattern has also been referred to as psychopathy, sociopathy, or dyssocial personality disorder. Because deceit and manipulation are central features of Antisocial Personality Disorder, it may be especially helpful to integrate information acquired from

systematic clinical assessment with information collected from collateral sources.

For this diagnosis to be given, the individual must be at least age 18 years (Criterion B) and must have had a history of some symptoms of Conduct Disorder before age 15 years (Criterion C). Conduct Disorder involves a repetitive and persistent pattern of behavior in which the basic rights of others or major age-appropriate societal norms or rules are violated. The specific behaviors characteristic of Conduct Disorder fall into one of four categories: aggression to people and animals, destruction of property, deceitfulness or theft, or serious violation of rules. These are described in more detail on p. 85.

The pattern of antisocial behavior continues into adulthood. Individuals with Antisocial Personality Disorder fail to conform to social norms with respect to lawful behavior (Criterion A1). They may repeatedly perform acts that are grounds for arrest (whether they are arrested or not), such as destroying property, harassing others, stealing, or pursuing illegal occupations. Persons with this disorder disregard the wishes, rights, or feelings of others. They are frequently deceitful and manipulative in order to gain personal profit or pleasure (e.g., to obtain money, sex, or power) (Criterion A2). They may repeatedly lie, use an alias, con others, or malingering. A pattern of impulsivity may be manifested by a failure to plan ahead (Criterion A3). Decisions are made on the spur of the moment, without forethought, and without consideration for the consequences to self or others; this may lead to sudden changes of jobs, residences, or relationships. Individuals with Antisocial Personality Disorder tend to be irritable and aggressive and may repeatedly get into physical fights or commit acts of physical assault (including spouse beating or child beating) (Criterion A4). Aggressive acts that are required to defend oneself or someone else are not considered to be evidence for this item. These individuals also display a reckless disregard for the safety of themselves or others (Criterion A5). This may be evidenced in their driving behavior (recurrent speeding, driving while intoxicated, multiple accidents). They may engage in sexual behavior or substance use that has a high risk for harmful consequences. They may neglect or fail to care for a child in a way that puts the child in danger.

Individuals with Antisocial Personality Disorder also tend to be consistently and extremely irresponsible (Criterion A6). Irresponsible work behavior may be indicated by significant periods of unemployment despite available job opportunities, or by abandonment of several jobs without a realistic plan for getting another job. There may also be a pattern of repeated absences from work that are not explained by illness either in themselves or in their family. Financial irresponsibility is indicated by acts such as defaulting on debts, failing to provide child support, or failing to support other dependents on a regular basis. Individuals with Antisocial Personality Disorder show little remorse for the consequences of their acts (Criterion A7). They may be indifferent to, or provide a superficial rationalization for, having hurt, mistreated, or stolen from someone (e.g., "life's unfair," "losers deserve to lose," or "he had it coming anyway"). These individuals may blame the victims for being foolish, helpless, or deserving their fate; they may minimize the harmful consequences of their actions; or they may simply indicate complete indifference. They generally fail to compensate or make amends for their behavior. They may believe that everyone is out to "help number one" and that one should stop at nothing to avoid being pushed around.

The antisocial behavior must not occur exclusively during the course of Schizophrenia or a Manic Episode (Criterion D).

Associated Features and Disorders

Individuals with Antisocial Personality Disorder frequently lack empathy and tend to be callous, cynical, and contemptuous of the feelings, rights, and sufferings of others. They may have an inflated and arrogant self-appraisal (e.g., feel that ordinary work is beneath them or lack a realistic concern about their current problems or their future) and may be excessively opinionated, self-assured, or cocky. They may display a glib, superficial charm and can be quite voluble and verbally facile (e.g., using technical terms or jargon that might impress someone who is unfamiliar with the topic). Lack of empathy, inflated self-appraisal, and superficial charm are features that have been commonly included in traditional conceptions of psychopathy and may be particularly distinguishing of Antisocial Personality Disorder in prison or forensic settings where criminal, delinquent, or aggressive acts are likely to be nonspecific. These individuals may also be irresponsible and exploitative in their sexual relationships. They may have a history of many sexual partners and may never have sustained a monogamous relationship. They may be irresponsible as parents, as evidenced by malnutrition of a child, an illness in the child resulting from a lack of minimal hygiene, a child's dependence on neighbors or nonresident relatives for food or shelter, a failure to arrange for a caretaker for a young child when the individual is away from home, or repeated squandering of money required for household necessities. These individuals may receive dishonorable discharges from the armed services, may fail to be self-supporting, may become impoverished or even homeless, or may spend many years in penal institutions. Individuals with Antisocial Personality Disorder are more likely than people in the general population to die prematurely by violent means (e.g., suicide, accidents, and homicides).

Individuals with this disorder may also experience dysphoria, including complaints of tension, inability to tolerate boredom, and depressed mood. They may have associated Anxiety Disorders, Depressive Disorders, Substance-Related Disorders, Somatization Disorder, Pathological Gambling, and other disorders of impulse control. Individuals with Antisocial Personality Disorder also often have personality features that meet criteria for other Personality Disorders, particularly Borderline, Histrionic, and Narcissistic Personality Disorders. The likelihood of developing Antisocial Personality Disorder in adult life is increased if the individual experienced an early onset of Conduct Disorder (before age 10 years) and accompanying Attention-Deficit/Hyperactivity Disorder. Child abuse or neglect, unstable or erratic parenting, or inconsistent parental discipline may increase the likelihood that Conduct Disorder will evolve into Antisocial Personality Disorder.

Specific Culture, Age, and Gender Features

Antisocial Personality Disorder appears to be associated with low socioeconomic status and urban settings. Concerns have been raised that the diagnosis may at times be misapplied to individuals in settings in which seemingly antisocial behavior may be part of a protective survival strategy. In assessing antisocial traits, it is helpful for the clinician to consider the social and economic context in which the behaviors occur.

By definition, Antisocial Personality cannot be diagnosed before age 18 years. Antisocial Personality Disorder is much more common in males than in females. There has been some concern that Antisocial Personality Disorder may be underdiagnosed in females, particularly because of the emphasis on aggressive items in the definition of Conduct Disorder.

Prevalence

The overall prevalence of Antisocial Personality Disorder in community samples is about 3% in males and about 1% in females. Prevalence estimates within clinical settings have varied from 3% to 30%, depending on the predominant characteristics of the population being sampled. Even higher prevalence rates are associated with substance abuse treatment settings and prison or forensic settings.

Course

Antisocial Personality Disorder has a chronic course but may become less evident or remit as the individual grows older, particularly by the fourth decade of life. Although this remission tends to be particularly evident with respect to engaging in criminal behavior, there is likely to be a decrease in the full spectrum of antisocial behaviors and substance use.

Familial Pattern

Antisocial Personality Disorder is more common among the first-degree biological relatives of those with the disorder than among the general population. The risk to biological relatives of females with the disorder tends to be higher than the risk to biological relatives of males with the disorder. Biological relatives of persons with this disorder are also at increased risk for Somatization Disorder and Substance-Related Disorders. Within a family that has a member with Antisocial Personality Disorder, males more often have Antisocial Personality Disorder and Substance-Related Disorders, whereas females more often have Somatization Disorder. However, in such families there is an increase in prevalence of all of these disorders in both males and females compared with the general population. Adoption studies indicate that both genetic and environmental factors contribute to the risk of this group of disorders. Both adopted and biological children of parents with Antisocial Personality Disorder have an increased risk of developing Antisocial Personality Disorder, Somatization Disorder, and Substance-Related Disorders. Adopted-away children resemble their biological parents more than their adoptive parents, but the adoptive family environment influences the risk of developing a Personality Disorder and related psychopathology.

Differential Diagnosis

The diagnosis of Antisocial Personality Disorder is not given to individuals under age 18 years and is given only if there is a history of some symptoms of Conduct Disorder before age 15 years. For individuals over age 18 years, a diagnosis of Conduct Disorder is given only if the criteria for Antisocial Personality Disorder are not met.

When antisocial behavior in an adult is associated with a Substance-Related Disorder, the diagnosis of Antisocial Personality Disorder is not made unless the signs of Antisocial Personality Disorder were also present in childhood and have continued into adulthood. When substance use and antisocial behavior both began in childhood and continued into adulthood, both a Substance-Related Disorder and Antisocial Personality Disorder should be diagnosed if the criteria for both are met, even though some antisocial acts may be a consequence of the Substance-Related Disorder (e.g.,

illegal selling of drugs or thefts to obtain money for drugs). Antisocial behavior that occurs exclusively during the course of **Schizophrenia** or a **Manic Episode** should not be diagnosed as Antisocial Personality Disorder.

Other Personality Disorders may be confused with Antisocial Personality Disorder because they have certain features in common. It is, therefore, important to distinguish among these disorders based on differences in their characteristic features. However, if an individual has personality features that meet criteria for one or more Personality Disorders in addition to Antisocial Personality Disorder, all can be diagnosed. Individuals with Antisocial Personality Disorder and **Narcissistic Personality Disorder** share a tendency to be tough-minded, glib, superficial, exploitative, and unempathic. However, **Narcissistic Personality Disorder** does not include characteristics of impulsivity, aggression, and deceit. In addition, individuals with Antisocial Personality Disorder may not be as needy of the admiration and envy of others, and persons with **Narcissistic Personality Disorder** usually lack the history of Conduct Disorder in childhood or criminal behavior in adulthood. Individuals with Antisocial Personality Disorder and **Histrionic Personality Disorder** share a tendency to be impulsive, superficial, excitement seeking, reckless, seductive, and manipulative, but persons with **Histrionic Personality Disorder** tend to be more exaggerated in their emotions and do not characteristically engage in antisocial behaviors. Individuals with **Histrionic** and **Borderline Personality Disorders** are manipulative to gain nurturance, whereas those with Antisocial Personality Disorder are manipulative to gain profit, power, or some other material gratification. Individuals with Antisocial Personality Disorder tend to be less emotionally unstable and more aggressive than those with **Borderline Personality Disorder**. Although antisocial behavior may be present in some individuals with **Paranoid Personality Disorder**, it is not usually motivated by a desire for personal gain or to exploit others as in Antisocial Personality Disorder, but rather is more often due to a desire for revenge.

Antisocial Personality Disorder must be distinguished from criminal behavior undertaken for gain that is not accompanied by the personality features characteristic of this disorder. **Adult Antisocial Behavior** (listed in the "Other Conditions That May Be a Focus of Clinical Attention" section, p. 683) can be used to describe criminal, aggressive, or other antisocial behavior that comes to clinical attention but that does not meet the full criteria for Antisocial Personality Disorder. Only when antisocial personality traits are inflexible, maladaptive, and persistent and cause significant functional impairment or subjective distress do they constitute Antisocial Personality Disorder.

■ Diagnostic criteria for 301.7 Antisocial Personality Disorder

- A. There is a pervasive pattern of disregard for and violation of the rights of others occurring since age 15 years, as indicated by three (or more) of the following:
- (1) failure to conform to social norms with respect to lawful behaviors as indicated by repeatedly performing acts that are grounds for arrest

(continued)

Diagnostic criteria for 301.7 Antisocial Personality Disorder (*continued*)

- (2) deceitfulness, as indicated by repeated lying, use of aliases, or conning others for personal profit or pleasure
 - (3) impulsivity or failure to plan ahead
 - (4) irritability and aggressiveness, as indicated by repeated physical fights or assaults
 - (5) reckless disregard for safety of self or others
 - (6) consistent irresponsibility, as indicated by repeated failure to sustain consistent work behavior or honor financial obligations
 - (7) lack of remorse, as indicated by being indifferent to or rationalizing having hurt, mistreated, or stolen from another
- B. The individual is at least age 18 years.
- C. There is evidence of Conduct Disorder (see p. 90) with onset before age 15 years.
- D. The occurrence of antisocial behavior is not exclusively during the course of Schizophrenia or a Manic Episode.

301.83 Borderline Personality Disorder

Diagnostic Features

The essential feature of Borderline Personality Disorder is a pervasive pattern of instability of interpersonal relationships, self-image, and affects, and marked impulsivity that begins by early adulthood and is present in a variety of contexts.

Individuals with Borderline Personality Disorder make frantic efforts to avoid real or imagined abandonment (Criterion 1). The perception of impending separation or rejection, or the loss of external structure, can lead to profound changes in self-image, affect, cognition, and behavior. These individuals are very sensitive to environmental circumstances. They experience intense abandonment fears and inappropriate anger even when faced with a realistic time-limited separation or when there are unavoidable changes in plans (e.g., sudden despair in reaction to a clinician's announcing the end of the hour; panic or fury when someone important to them is just a few minutes late or must cancel an appointment). They may believe that this "abandonment" implies they are "bad." These abandonment fears are related to an intolerance of being alone and a need to have other people with them. Their frantic efforts to avoid abandonment may include impulsive actions such as self-mutilating or suicidal behaviors, which are described separately in Criterion 5.

Individuals with Borderline Personality Disorder have a pattern of unstable and intense relationships (Criterion 2). They may idealize potential caregivers or lovers at the first or second meeting, demand to spend a lot of time together, and share the most

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Squad 1826, Identification Technician Delores YOUNG, responded to the scene and photographed the scene, as well as the items recovered.

All of these items were taken to the Police Administration Building and placed on inventory by Detective BEAUCHENE and myself.

INTERVIEW OF DESTINI T. SPENCER

Prior to leaving the scene, I, Detective FINNEGAN, interviewed Destini T. SPENCER, B/F, DOB 07/02/91, of [REDACTED] Milwaukee, Wisconsin 53210, home phone [REDACTED] cell phone [REDACTED]. It should be noted that SPENCER is the girlfriend of Clancy JACOBS. SPENCER stated that she is the 12th grade at Bayview Outpost School, and she is currently unemployed. SPENCER stated that she lives with her mother, Toni V. SHEHI, B/F, DOB 01/14/70. SPENCER identified her boyfriend as Clancy JACOBS and stated that he has a birthday of November 22nd. SPENCER stated that JACOBS currently lives at [REDACTED] and has a phone number of [REDACTED]. SPENCER also stated that JACOBS is the father of her unborn child. She stated that she is four months pregnant and has a due date of April 12, 2009. SPENCER stated that she has known JACOBS for approximately six months, and she met him outside in her neighborhood sometime before the Summer of 2008. SPENCER provided a phone number for JACOBS of [REDACTED] and a cell phone number of [REDACTED].

SPENCER stated that she saw JACOBS yesterday, November 19, 2008, at her house. She stated that she got out of school at approximately 11:00 a.m. and picked him from his house. She stated that they "chilled" at her house. SPENCER stated that she dropped JACOBS off at his house at around 10:00 p.m. SPENCER stated that she next talked to JACOBS today, November 20, 2008, at approximately 8:00 a.m. before she went to school. She stated that she talks to JACOBS everyday and that he calls to make sure that he goes to school. SPENCER stated that she next talked to JACOBS at approximately 10:30 a.m. on November 20th and that she told him that she would come and get him after she got out of school. SPENCER stated that she arrived at JACOBS' house at approximately 11:15 a.m., and they then went to her house. SPENCER stated that they hung out at her house until receiving a phone call from SPENCER's cousin, Harold JOHNSON. SPENCER stated that JOHNSON called and asked them to come to get him at their grandmother's house at 4328 North 89th Street. SPENCER stated that they went to pick JOHNSON at approximately 1:00 p.m. SPENCER stated that she, JOHNSON, and JACOBS then went to the Mayfair Mall where they stayed until approximately 3:00 p.m. SPENCER stated that she dropped Harold JOHNSON back off at [REDACTED] and then she and JACOBS went to pick up her mother from her place of employment, Applebee's, near Midtown.

SPENCER stated that JACOBS went with her to pick up her mother, and he was with her the remainder of the night until she brought him back to [REDACTED] where he was taken into custody by the police.

SPENCER stated that she knows that Harold JOHNSON is JACOBS' cousin and that Harold's mother is Clancy's aunt. SPENCER denied ever having gone to JOHNSON's residence. SPENCER further denied any knowledge of the Bank Robbery of which JOHNSON and JACOBS had been taken into custody for. SPENCER stated that she did not have any involvement in this robbery.

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Report per Detective Audra FINNEGAN, P.S.#008507
AF:mc 11-23-08

Incident Report MILWAUKEE POLICE DEPT

#6
: 6

083250087
DRAFT

Supplement No
0015

2333 N. 49TH ST
Milwaukee, WI 53210

Reported Date
11/21/2008
Nature of Call
ROBBRYARM
Officer
BEAUCHENE, WILLIAM R

(414) 935-7502

Administrative Information											
Agency	MILWAUKEE POLICE DEPT	Incident No	083250087	Supplement No	0015	Reported Date	11/21/2008	Reported Time	23:30	CAD Call No	083250749
Status	REPORT TO FOLLOW	Nature of Call	ROBBERY ARMED	Location	8050 W CAPITOL DR						
City	MILWAUKEE	ZIP Code	53222	Rep Dist	1767	District	7	Squad	729	From Date	11/20/2008
Officer	009019/BEAUCHENE, WILLIAM R				Assignment	CIB - VIOLENT CRIMES - EARLY				Entered by	017961
Assignment	CENTRAL RECORDS DIVISION		Property?	None	Approving Officer				Approval Date		
Approval Time											

INTERVIEW 1: SPENCER, DESTINI																		
Involvement	INTERVIEW	Invl No	1	Type	INDIVIDUAL	Name	SPENCER, DESTINI			MNI	565859	Race	BLACK					
Sex	FEMALE	DOB	07/02/1991	Age	17	Ethnicity	NOT OF HISPANIC ORIGIN		Juvenile?	No	Height	5'04"	Weight	173#	Hair Color	BLACK	Eye Color	BROWN
Type	HOME	Address					City	MILWAUKEE		State	WISCONSIN							
ZIP Code	53208																	
Phone Type	HOME	Phone No (414) 763-5080																

SUSPECT 1: JACOBS, CLANCY															
Involvement	SUSPECT	Invl No	1	Type	INDIVIDUAL	Name	JACOBS, CLANCY			MNI	2732330	Race	BLACK	Sex	MALE
DOB	11/22/1990	Age	17	Juvenile?	No	Height	5'11"	Weight	160#	Hair Color	BLACK	Eye Color	BROWN	OFN_INVL	1
Type	HOME	Address					City	MILWAUKEE		State	WISCONSIN				
ZIP Code	53218														

Modus Operandi			
Gang Act?	No	Crime Code(s)	ROBBERY
Gang Name	NONE		

Supplement
This report is dictated by Detective William BEAUCHENE, Squad 9276, assigned to the Criminal Investigation Bureau, Early Shift.

On Friday, 11/21/08, at approximately 8:23 p.m., Detective Audra FINNEGAN and I conducted a follow-up on the above-listed investigation on the Fourth Floor of the Criminal Investigation Bureau.

INTERVIEW OF DESTINI SPENCER

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The follow-up consisted of interviewing a suspect in the above-listed offense, identified as Destini SPENCER, B/F, DOB 07/02/91, who lives at [REDACTED] with a PIN of #370637, home phone [REDACTED]. SPENCER was in custody initially for lying to Detective FINNEGAN and I the day prior to this offense regarding her knowledge of the Bank Robbery in which her boyfriend, identified as Clancy L. JACOBS, B/M, DOB 11/22/90, who lives at [REDACTED] PIN #397412, was involved in this offense.

Detective FINNEGAN read SPENCER her Constitutional Rights/Miranda Warnings from a State of Wisconsin Department of Justice Card, and after reading the card verbatim to SPENCER and having SPENCER read along with an extra, additional card that Detective FINNEGAN had, SPENCER stated that she understood her rights and was willing to speak to us at this time.

The interview was conducted at Room 407 and lasted approximately 47 minutes, from 8:23 p.m. until 9:10 p.m. There was a break for approximately five minutes, from 9:00 p.m. until 9:05 p.m. during that time. The following is a synopsis of the interview conducted by Detective FINNEGAN and I, but for a detailed account of the interview, please refer to Milwaukee Police Department Inventory #449632 for a complete account of this interview.

Initially, SPENCER continued to deny any knowledge of this robbery. She continued to state that her child's father (JACOBS) and his cousin, whom she identified as Harold T. JOHNSON, B/M, DOB 04/06/92, who also lives at [REDACTED] were with her during the time of this offense. Detective FINNEGAN and I went through a detailed account of where she (JOHNSON) and JACOBS were during this time, and she specifically stated that during the time of the robbery, they were going to Mayfair Mall. After confronting SPENCER with several of her inconsistencies and the fact that her story did not match the suspects that were in custody, that being JACOBS and JOHNSON, she finally admitted to knowledge of this offense.

SPENCER stated that she didn't get out of school until approximately 11:30 a.m. and that she went to her cousin's, Shanelle's, house on 29th and Courtland. She stated that her boyfriend, JACOBS, was mad because he wanted her to come over and pick her up. She stated that while she was at Shanelle's house, she picked up another cousin and took her to 19th and Capitol. She further stated that after that, she drove back to Shanelle's house and that her boyfriend, Clancy, called her. She stated that Clancy was out of breath and stated words to the effect of, "Come to my house." "I got 10 racks." SPENCER stated that she didn't know what "10 racks" meant, but after talking to her cousin and her friend, someone stated that they thought it meant money. SPENCER stated that she then went to Clancy's house on North 39th Street and went into the basement. She saw JACOBS standing there while JOHNSON was on the floor of the basement counting a lot of money in a shoebox. SPENCER stated that the money was red, and she became angry. She stated that she accused Clancy of "killing someone" for this money; at which time, Clancy JACOBS denied killing anyone for this money, but did not tell her where he got it. SPENCER stated that she saw both JOHNSON and JACOBS hiding money all over the basement, in furniture, behind things, and under things. She stated that both of them then put money in their pockets and that she saw JOHNSON put a bunch of money into a bag. She stated that all three of them then went to Mayfair Mall, and she and JACOBS went to either a Footlocker or a Foot Action Store, so JACOBS could buy some boots. She stated that JOHNSON walked somewhere and that she didn't see him for a while. She stated that she continued to fight with JACOBS because he didn't tell her where he got this

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money.

SPENCER stated that JACOBS then met up with a friend of his, whom she knows as "Kev" and that they were whispering something. She stated that she continued to walk away from him and was angry that he wouldn't tell her where he got the money and eventually, she left the mall without JACOBS because he got a ride back from "Kev", and they were fighting. She stated that after they left the mall, she eventually went back over to JACOBS' residence to talk about the fight that they were having over where they got this money. She continued to deny that JACOBS told her where he got this money and that eventually, the police began calling JACOBS to tell him to turn himself in. She further stated that after they left the residence, they went back to the grandparents' residence, and JACOBS turned himself into the police.

SPENCER denied having any prior knowledge to this robbery, getting any proceeds from this robbery, or knowing about the robbery until the police started calling JACOBS and telling him to turn himself in. She stated that the reason why she lied was because she didn't want to see her child's father go to jail, and she knows that he has been in trouble with robberies in the past. She stated that she is now telling the truth because she doesn't want to get in trouble for something that her child's father did.

Report per Detective William BEAUCHENE, P.S.#009019
WB:mc 11-23-08

Report Officer

009019/BEAUCHENE, WILLIAM R

Printed At

12/03/2008 18:01

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Custody battle awaits decision

'Difficult case' pits foster parents against father

By [Mary Zahn](#) of the Journal Sentinel
Oct. 29, 2006

Testimony in a tug-of-war between foster parents and a biological father fighting over who will be allowed to raise his son ended last week with key courtroom figures divided over the toddler's future.

An assistant district attorney said the child should stay with the foster parents, the attorney appointed to represent the child's best interests said he should be raised by his biological father, and the Bureau of Milwaukee Child Welfare's official position is that the boy should be returned to his dad - though a case manager appeared to disagree.

Meanwhile, the court-appointed psychologist who interviewed all the possible caregivers concluded they are all capable, good people and loved by the child. Ultimately, she concluded, the child belongs with his father, differing from another therapist who concluded just the opposite, though she worked only with the foster parents.

"This is a very difficult case that makes for a difficult decision," Children's Court Judge David Borowski said late Monday at the final hearing. "This child has four people who care about him and love him, and that is the most important part of the case."

The unusual proceeding began after the boy was born cocaine addicted in December 2004 and placed in foster care. Edward LeFlore, free from drugs almost four years, told social workers he wanted to raise his son.

In March, after LeFlore felt he had met all the conditions, such as specialized parenting classes, he filed a motion to have his son moved permanently into his home. At that point the foster parents, David and Susan Harling, hired an attorney to help them keep the child. After 16 hearings and a five-day court trial that ended Monday, Borowski said he will review the testimony and announce his decision Nov. 15.

The boy, who will be 2 years old in December, remains with the Harlings, both 42, of Ozaukee County. LeFlore, 42, and his wife, Vanessa, 46, of Milwaukee, have four overnight visits with the boy every two weeks.

The boy's biological mother is a longtime drug addict whose whereabouts are unknown. LeFlore said he met her in a rehabilitation program and stopped seeing her when she started using drugs again.

LeFlore has visited with his son regularly since his birth. He testified that he has met all the conditions set by child welfare workers and has been through two parenting classes, two psychological evaluations, individual therapy, family therapy, anger management and a nurturing class.

The Harlings' attorney, Stephen Hayes, hammered away at the fact the child had spent most of his life with them and presented a therapist who testified that Susan Harling was the key figure in the boy's life and that it would be like a death if he were removed from the home.

In addition, he said LeFlore was convicted of indecently touching a 9-year old girl when he was 18, was physically abused as a child and was involved in domestic violence in a prior marriage years ago. He acknowledged that LeFlore apparently has been drug free for almost four years but said "there is a risk for relapse."

Both couples sat at separate tables with their attorneys, frequently with their arms around their spouse or holding hands. During testimony about his past drug use, LeFlore gently put his head on his wife's shoulder. Susan Harling kept a small photo of the child in front of her throughout most of the testimony.

LeFlore testified about his past problems and said they all occurred when he was addicted to drugs.

"Most of my youth and even as a young man I acted under the influence," LeFlore, who regularly attends Narcotics Anonymous meetings, told the judge.

In one particularly tense point in the trial, Susan Harling, who is white, testified that she and her husband had read books including "The Joy and Challenge of Raising African-American Children" in order to sensitize themselves to racial issues. Both LeFlore and his wife, who are African-American, glared at her.

Susan Harling spoke lovingly of helping the child overcome the effects of cocaine and said that before LeFlore was proven to be the father, the Harlings had planned on adopting the boy. They are open to regular visitation by the LeFlores if they are granted legal guardianship, she said. Adoption is not possible because there are no grounds to terminate LeFlore's parental rights, experts said.

"We love him, and we have brought him through so much," Susan Harling testified as she tried to control her emotions. "I just don't know what it would be like without him."

In his closing argument, Ira Bordow, the LeFlores' attorney, said David Harling had been convicted of misdemeanor theft involving a business venture last year and that the couple had once filed for bankruptcy. He said three therapists who had worked with LeFlore on parenting skills had no concerns about his ability or connection to his son.

One of the therapists, Lisa Thill, testified that she has met with the LeFlores weekly since October 2005 and had observed him "laughing, smiling" and reading books with his son. One case manager, Thill said, continually found "nitpicking" reasons why LeFlore's visits with his son should not be increased.

"I made the comment that Ed is never going to be good enough" for the other case manager, Thill testified.

Janet Protasiewicz, the assistant district attorney, told the judge the case was the most difficult she had encountered in 15 years as a prosecutor. The district attorney's office remained a party in the trial because it filed the initial protective services petition for the boy when he was born. After weighing all the testimony, she said the best ending would be for the Harlings to have legal guardianship of the child with visitation by the LeFlores.

"This child should have all four adults in his life," she said. "If he is placed with the father, there will

probably be no contact with the Harlings."

Finally, the attorney representing the child, James Rice, told Borowski how impressed he was with LeFlore's recovery from drug abuse and his honesty about his problems.

"He has overcome many things," Rice told the judge. "He is a man of insights. . . . He lives his life in a powerful, meaningful capacity. He will be a wonderful father to his son."

Borowski implored the two couples to continue making the child's transition from one home to another as comfortable as possible until he decides where the boy will live.

Find this article at:

<http://www.jsonline.com/news/milwaukee/29219909.html>

Check the box to include the list of links referenced in the article.



OFFICE OF THE DISTRICT ATTORNEY
Milwaukee County

JOHN T. CHISHOLM · District Attorney

Chief Deputy Kent L. Lovern, Deputies James J. Martin, Patrick J. Kenney, Lovell Johnson, Jr., Jeffrey J. Altenburg

September 24, 2012

Office of Governor Scott Walker
 115 E. State Capitol
 Madison, WI 53702

RE: Judicial Application of Janet C. Protasiewicz

Attn: Chief Legal Counsel

I write to recommend the appointment of Attorney Janet C. Protasiewicz to the Milwaukee County Circuit Court, Branch 45. Attorney Protasiewicz and I have worked together for almost 25 years, having both been appointed to the position of Assistant District Attorney for Milwaukee County in 1988. She has the legal experience, knowledge and integrity required to serve in the Judiciary.

Attorney Protasiewicz also has the temperament necessary to serve the community as Judge. She has spent her legal career working diligently for those in our society who most deserve and need assistance and protection; namely, abused and neglected children and the innocent victims of crimes. She has been a tough and fair prosecutor.

Many of the attributes which have enabled her to be an excellent prosecutor would also serve her in being an equally effective Judge. These intangibles include an outstanding work ethic, the ability to analyze difficult factual and legal situations and the wisdom to make the appropriate decisions. She knows the difference between settling for what can be done and striving for what should be done, even in the most difficult cases.

Attorney Protasiewicz would make an outstanding Judge who would serve well the citizens of Milwaukee County and Wisconsin.

Sincerely,

Denis J. Stingl
 Assistant District Attorney

- Donald S. Jackson
- Gale G. Shelton
- Gary D. Mahkorn
- David Robles
- Cynthia G. Brown
- Norman A. Gahn
- Steven H. Giamm
- Mark S. Williams
- John M. Stolber
- Thomas L. Potter
- David Feiss
- Rayann Chandler Szychinski
- Carole Manchester
- Warren D. Zier
- Timothy J. Cotter
- Steven V. Licata
- Brad Vorpahl
- Paul Tiffin
- Miriam S. Falk
- Phyllis M. DeCarvalho
- Dennis P. Murphy
- Bruce J. Landgraf
- Denis J. Stügl
- Janet C. Protasiewicz
- DeAnn L. Heard
- Patricia A. McGowan
- Irene E. Parthum
- Karen A. Loebel
- Ronald S. Dague
- Lori S. Kornblum
- Karine O'Byrne
- James W. Frisch
- Kurt B. Benkley
- James C. Griffin
- William P. Pipp
- Joanne L. Hardtke
- Christopher A. Liegel
- Megan P. Carmody
- Laura A. Crivello
- Shawn Pompe
- Kevin R. Shomin
- Beth D. Zingibel
- Karen A. Vespalec
- Mark A. Sanders
- Paul C. Dedinsky
- David T. Malone
- Kelly L. Hedge
- Rachael Stencil
- Mary M. Sowinski
- Kathryn K. Sarner
- Daniel J. Gabler
- Sara P. Scullen
- T. Christopher Dee
- Jacob D. Corr
- Joy Hammond
- Katharine F. Kucharski
- Elisabeth Mueller
- Grant I. Huebner
- Stephan Eduard Nolten
- Michelle Ackerman Hayes
- Claire Starling
- Rebecca A. Kiefer
- Matthew J. Torbenson
- Katryna L. Childs
- Anthony White
- Antonj Apollo
- Nicole D. Loeb
- Erin Karshen
- Lucy Kronforst
- Michael J. Lonski
- Paul M. Hauer
- Sara Beth Lewis
- Jenni Spies
- David M. Stegall
- Amanda Kirklewski
- Renee Heintz
- Karl P. Hayes
- Holly L. Bunch
- Heather M. Placek
- Megan M. Williamson
- Dewey B. Martin
- Sarah Sweeney
- Christopher J. Ladwig
- Kimberly D. Schoepp
- Nicole J. Sheldon
- Dax C. Odom
- Maureen A. Atwell
- Christopher W. Rawsthorne
- Jennifer L. Hanson
- Patricia I. Daughtery
- Marissa L. Santiago
- Meghan C. Lindberg
- Jon Neuleib
- Ann M. Lopez
- Brian Sammons
- Peter M. Tempelis
- Matthew G. Puthukulam
- Jeremiah C. Van Hecke
- Randy Sitzberger
- Karyn E. Behling
- Nicolas J. Heltman
- Chad Wozniak
- Estee E. Hart
- Kristin M. Schrank
- Claire E. Hartley
- Francesco G. Mineo
- Jane Christopherson
- Tyrone M. St. Junior
- Hanna R. Kolberg
- Joshua M. Mathy
- Antonella Aleman
- Cynthia M. Davis
- Jessica A. Ballenger
- William M. Levins
- Matthew R. Westphal
- Catelin A. Ringersma
- Sara Volden Schroeder
- Abbey Marzick
- Molly M. Schmidt
- Jay R. Pucek
- Danielle E. Chojnacki
- Kaivon Yazdani

October 3, 2012

Office of Governor Scott Walker
Attn: Chief Legal Counsel
115 E. State Capitol
Madison, WI 53702

Re: Judicial Application of Janet Protasiewicz for Branch 45,
Milwaukee County Circuit Court

Dear Governor Walker:

I am a former United States Attorney and Assistant U.S. Attorney for the Eastern District of Wisconsin with extensive experience prosecuting criminal cases and a defense attorney in federal and State Courts.

I write to recommend and urge you to appoint Janet C. Protasiewicz of Franklin, Wisconsin to fill the vacancy on the Milwaukee County Circuit Court.

I have known Janet for at least ten years as a highly respected Assistant District Attorney for Milwaukee County effectively prosecuting complex felony cases and other serious offenses for 24 years.

Not only has Janet performed her duties as a front-line prosecutor, she has also trained numbers of the District Attorney's staff. In addition for the last 14 years she has been a member of the faculty of the prestigious United States Department of Justice – National Advocacy Center in Columbia, South Carolina. Janet also has been a member of the Fairchild Inn of Court in Milwaukee and has actively participated in training and mentoring of young attorneys.

I believe that Janet Protasiewicz is the type of person we need on the Milwaukee County Circuit Court bench.

I would be happy to discuss this appointment further with you at your convenience.

Respectfully yours,


William J. Mulligan

WJM:ilm

Phone 414.276.0200 Direct 414.225.1429 Fax 414.278.3629
111 E. Kilbourn Avenue, Suite 1400, Milwaukee, WI 53202
wmulligan@dkattorneys.com



DAVIS KUELTHAU
attorneys at law

October 2, 2012

Office of Governor Scott Walker
Attn: Chief Legal Counsel
115 E. State Capitol
Madison, WI 53702

OCT - 5 2012

Re: Application of Janet Protasiewicz for vacancy in Branch 45
Milwaukee County Circuit Court

Dear Governor Walker:

Early in my career I served as an assistant district attorney under then-District Attorney Gerald C. Nichol in Dane County. Since then my litigation practice has included defense of street crime and white collar crime. In the years since my service as a prosecutor, I have had occasion to work with and observe many assistant district attorneys and district attorneys who have offered themselves as candidates for the judiciary. I have seen candidates ranging from mediocre to excellent. I am happy to report that Attorney Protasiewicz clearly is in the rank of excellent candidates and I urge her appointment to fill the vacancy in Branch 45 in Milwaukee County Circuit Court.

Attorney Protasiewicz has been an excellent prosecutor here in Milwaukee County. In addition I have come to know her through membership in Fairchild Inns of Court. She is a person of high intelligence who has an unusual capacity to balance the rule of law with compassion for individuals who are the victims of crime and for children. In my experience it is easy to find hard-liners or soft-liners in prosecutors' offices. It is much more difficult to find individuals with the intelligence and common sense necessary to balance the human dimension of disputes with the necessity of applying the law to the facts of a case in support of the rule of law. I think that faculty is special and I wish that faculty was possessed by all who are judges. I think that faculty is one which should weigh the balance in her favor and lead to her appointment to the bench.

I would be happy to discuss the matter further with you at your convenience, please feel free to contact me with any questions or comments you may have.

Respectfully yours,

Davis & Kuelthau, s.c.

Kevin J. Lyons

KJL:llm

Phone 414.276.0200 Direct 414.225.1402 Fax 414.278.3602
111 E. Kilbourn Avenue, Suite 1400, Milwaukee, WI 53202
klyons@dkattorneys.com

October 4, 2012

Office of Governor Scott Walker
Attn: Chief Legal Counsel
115 E. State Capitol
Madison, WI 53702

RE: Janet C. Protasiewicz

To Whom It May Concern:

I am writing to you regarding Janet Protasiewicz. I have known Janet personally for over 2 years; having met her through the Rotary Club of Milwaukee.

During the time I have known her, Janet has demonstrated that she has excellent rapport with people of all ages. In addition, she is organized, competent and has strong communication skills.

Janet has impressed me as being very passionate about her job and serving her constituents. I believe that her experience and skills would make her an excellent candidate for the judicial position in Branch 45 of the Milwaukee County Circuit Court.

If you have any questions, do not hesitate to contact me by phone at [REDACTED] or by email: kims@parkbankonline.com.

Sincerely,


Kim D. Schaffer

SIGRID E. DYNEK
[REDACTED]
MEQUON, WISCONSIN 53092
262-240-0827

October 5, 2012

State of Wisconsin
Office of Governor Scott Walker

Madison, WI

Re: Janet Protasiewicz
Letter of Recommendation

Attn: Chief Legal Counsel

The purpose of this letter is to highly recommend Janet Protasiewicz for a judicial appointment as Circuit Court Judge for Milwaukee County.

I have known Ms. Protasiewicz for approximately five years. We currently both serve on the Marquette University Law School Alumni Association.

Ms. Protasiewicz is a knowledgeable District Attorney for Milwaukee County who possesses sound judgment. She is a skilled attorney who consistently applies the law to the facts at hand fairly and accurately. Ms. Protasiewicz conducts herself in a professional manner, with high ethical standards. She is diligent and conscientious in her interactions with victims, witnesses, defendants and the legal community, including the judges before whom she appears. Ms. Protasiewicz is well regarded by her peers and by the individuals with whom she works.

Ms. Protasiewicz gives back to the community with various volunteer efforts. She makes every effort to maximize the benefits the projects to which she is committed and to make them successful and productive.

Milwaukee County would be very well served by the appointment of Ms. Protasiewicz to the bench.

Sincerely yours

Sigrid E. Dynek, Esq.



A Ministry of the
Conventual Franciscans

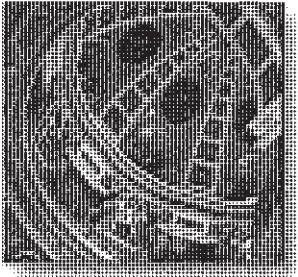
Office of Governor Scott Walker
Attn: Chief Legal Counsel
115 East State Capitol
Madison, WI 53702

29 September 2012

Re: Janet C. Protasiewicz and Branch 45, Milwaukee County

Greetings.

I commend Janet C. Protasiewicz to you for your consideration as you fill the judicial vacancy in Branch 45 of the Milwaukee County Circuit Court.



I have known Janet for the past two years. She is a very dedicated and trustworthy woman. She is attentive in listening to others and willing to speak her mind as necessary.

Janet is committed to the local community. She is an active member of the Board of Directors of the St. Josaphat Basilica Foundation. Her dedication to the mission of the Basilica as a community asset and Milwaukee landmark is commendable.

It has been a pleasure to know Janet. I highly recommend her for your consideration.

May God bless you.

Peace,

Very Rev. Michael J. Glastetter, OFM Conv.

Very Rev. Michael J. Glastetter, OFM Conv.
Rector-Pastor

2333 South Sixth Street
Milwaukee, WI 53215

Phone: (414) 645-5623
Fax: (414) 645-2216

www.TheBasilica.org



OFFICE OF THE DISTRICT ATTORNEY
Milwaukee County

JOHN T. CHISHOLM • District Attorney

Chief Deputy Kent L. Lovern, Deputies James J. Martin, Patrick J. Kenney, Lovell Johnson, Jr., Jeffrey J. Altenburg

October 3, 2012

Office of Governor Scott Walker
Attn: Chief Legal Counsel
115 E State Capitol
Madison WI 53702

Re: Judicial Application of Janet Protasiewicz for Branch 45,
Milwaukee County Circuit Court

Dear Governor Walker:

I am a Deputy District Attorney for the Milwaukee County District Attorney's Office and for over 20 years I have known and worked with Assistant District Attorney Janet Protasiewicz. Based upon those years of working with her, I believe she would make an outstanding choice to fill the judicial vacancy in Branch 45.

Attorney Protasiewicz possesses a number of qualities that would make her an outstanding judge. First, she has an outstanding legal mind. She has always amazed me by how quickly she is able to accurately sift through facts of the most difficult cases and correctly evaluate both the facts and the law. Secondly, she cares about the Milwaukee community. I have seldom met a person that is as active in her community, both locally and state wide. Her activity in the community is not something that she just recently started for the purpose of positioning herself in some type of office. She's active because she cares about Milwaukee County as well as the State of Wisconsin. That caring shines forth in everything she does, be it working with the Polish Community Center or through other groups.

Finally, she cares about people within the system, whether those be victims, law enforcement officers, defense attorneys, other prosecutors, or defendants. I believe it is critically important that a judge have an open mind as to the problems being dealt with by all persons in the system. That is in no way meant to imply that Attorney Protasiewicz would not impose significant sentences if the facts and

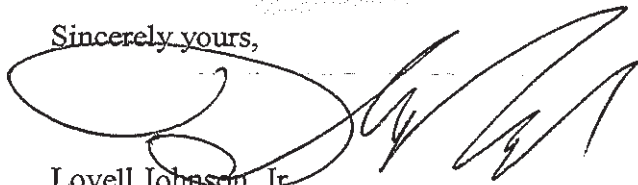
- Donald S. Jackson
Gale G. Shelton
Gary D. Mahkorn
David Robles
Cynthia G. Brown
Norman A. Gahn
Steven H. Glamm
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John M. Stolber
Thomas L. Potter
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Carole Manchester
Kenneth R. Berg
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Steven V. Licata
Brad Vorpahl
Paul Tiffin
Mirlam S. Falk
Phyllis M. DeCarvalho
Dennis P. Murphy
Bruce J. Landgraf
Denise J. Stingi
Janet C. Protasiewicz
DeAnn L. Heard
Patricia A. McGowan
Trone E. Parthum
Karen A. Loebel
Ronald S. Dague
Lori S. Komblum
Karina O'Byrne
Marla Dorsey
James W. Fritsch
Kurt B. Benkley
James C. Griffin
William P. Pipp
Joanne L. Hardtke
Christopher A. Ueigel
Megan P. Carmody
Laura A. Gravello
Shawn Pompe
Kevin R. Shomin
Beth D. Ziegler
Karen A. Vespielic
Mark A. Sanders
Paul C. Dedlinsky
David T. Malone
Kelly L. Hedge
Rachael Stencel
Mary M. Sowinski
Kathryn K. Serner
Daniel J. Gabler
Sara P. Scullon
T. Christopher Dee
Jacob D. Carr
Joy Hammond
Katharine F. Kucharski
Elizabeth Mueller
Grant I. Huebner
Stephan Eduard Nolten
Michelle Ackerman Havas
Jannifer K. Rhodes
Caitre Starling
Zach Whitlincy
Rebecca A. Kiefer
Matthew J. Torbenson
Katryna L. Childs
Anthony White
Antoni Apollo
Nicole D. Loeb
Erin Karshen
Lucy Kronforst
Michael J. Lonski
Paul M. Hauer
Sara Beth Lewis
Jenni Spitz
David M. Siespall
Amanda Kirkowicki
Benjamin Wesson
Renee Hoinitz
Karl P. Hayes
Holly L. Bunch
Jacob A. Menlan
Heather M. Placock
Megan M. Williamson
Dowey B. Martin
Sara Sweeney
Christopher J. Ladwig
Kimberly D. Schoepp
Nicole J. Sheldon
Dax C. Odum
Mareen A. Atwell
Christopher W. Rawethorne
Jennifer L. Hanson
Patrick J. Daugherty
Meghan C. Lindborg
Jon Neulob
Ann M. Lopez
Brian Sammons
Peter M. Tempelis
Matthew G. Puthukulam
Joremlah C. Van Hecke
Randy Sitzberger
Karyn E. Behling
Kasey M. Dolis
Nicolas J. Helman
Chad Wozniak
Estee E. Hart
Kristin M. Schrank
Claire E. Hartley
Francesca G. Minco
Jane Christopherson
Tyronne M. St. Junior
Hanna R. Kolborg
Joshua M. Matthy
Antanellis Schildgen
Cynthia M. Davis
Kristen Reddingor
Jessica A. Ballenger
William M. Levins
Matthew R. Westphal
Caitlin A. Ringersma
Sara Volden Schroeder
Abbey Marzick

007-1-8 2012

circumstances surrounding the crime require it. However, I do believe she has the ability to judge a situation on its merits and reach a decision that would be fair and just for all involved.

I am a life long resident of Milwaukee County, the State of Wisconsin and a life long Democrat so I'm not sure how this recommendation will be received by your office. But if you are looking for someone that would embrace the position of circuit court judge completely and ethically and would be an asset not only to this community but to the State of Wisconsin, I do not believe you could make a better choice than Janet Protasiewicz. Thank you.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Lovell Johnson, Jr.', written over a horizontal line.

Lovell Johnson, Jr.
Deputy District Attorney
Milwaukee County

LJ/sks



October 4, 2012

Chief Legal Counsel
Office of Governor Scott Walker
115 East, State Capitol
Madison, Wisconsin 53702

OCT - 8 2012

Re: *Upcoming Vacancy in Milwaukee County Circuit Court, Branch 45*

Dear Counsel and Governor Walker:

I am writing to recommend that you appoint Milwaukee County Ass't District Attorney Janet Protasiewicz to the upcoming vacant seat in the Milwaukee County Circuit Court, Branch 45, now held by Judge Donegan, who has announced his retirement.

I have known Janet for almost twenty-five years, first meeting her when I taught at Marquette Law School as an adjunct professor of law. I have seen her develop over the years into a fine prosecutor with the Milwaukee County District Attorney's Office. I have also had numerous occasions to be up against her in various legal cases, which gives one a true measure of the person and the professional.

Janet has always impressed me with her balanced but steadfast approach, fairness and integrity. Her legal skills and "street smarts" gained over the year will serve her well should she be appointed to the bench in Milwaukee.

In my mind, Janet has the breadth of experience, both in the downtown DA office with adult prosecutions, and her previous experience in Children's Court, as well as the necessary demeanor to make her an excellent circuit court judge, ready to go to work and pick up the active calendar of Branch 45. She already knows the Milwaukee court system and many of the people, lawyers and judges, who work in it, and is well-respected by all.

TWO PLAZA EAST
SUITE 1170
330 E. KILBOURN AVE.
MILWAUKEE, WI 53202
P: 414-271-1440
F: 414-271-7680
WWW.GRGBLAW.COM





If you or your staff have any questions or want further insights from me on Janet Protasiewicz, please do not hesitate to contact me at my office or on my cell phone is [REDACTED] Thank you for your consideration of my recommendation.

Very truly yours,

A handwritten signature in black ink, appearing to read 'RAYMOND M. DALL'OSTO', written over a horizontal line.

RAYMOND M. DALL'OSTO

RMD/d

Zach Whitney

Milwaukee, WI 53207

October 1, 2012

Office of Governor Scott Walker
Attn: Chief Legal Counsel
115 East State Capitol
Madison, WI 53702

To Whom It May Concern:

I am honored to write this letter in support of the appointment of Janet C. Protasiewicz to Branch 45 of the Milwaukee County Circuit Court. I have known Janet professionally and personally for eight years and I have no doubt that she would make an outstanding addition to the bench.

I met Janet upon my hire as a Milwaukee County Assistant District Attorney. I had the privilege of working alongside her on several cases and I witnessed her in action on many occasions putting away some of the most violent and dangerous criminals found in Wisconsin. Janet is, by all measures, a huge resource and mentor to other ADA's. She is smart. She knows substantive law and procedure better than any attorney I've seen (which includes my years clerking for the Court of Appeals for the Seventh Circuit, working as an ADA, and litigating for businesses at Kohner, Mann & Kailas, S.C.). And she has common sense in spades.

Janet is hardworking. She doesn't shy away from difficult cases; she enjoys the challenge. She is firm yet approachable. Her office door is always open and she will gladly lend a hand or give an insightful and experienced opinion to another attorney.

Janet's passion for justice and compassion for victims is second to none. While she respects the rights of the accused, she diligently uses every tool at her disposal to hold the guilty accountable. There are many, many victims who feel as though they have a voice because of Janet's remarkable efforts.

Up to this point in my career I have appeared before approximately fifty judges in many different state and federal courts. I know good judges. Simply put, Janet will be spectacular. She has the work ethic, intelligence, demeanor, and insistence on following the law that will make her among the most highly respected jurists in the State.

Please do not hesitate to contact me.

Very truly yours,

/s/ Zach S. Whitney

October 4, 2012

Office of Governor Scott Walker
Attn: Chief Legal Counsel
115 E. State Capitol
Madison, WI 53702

RE: Janet C. Protasiewicz

To Whom It May Concern:

I am writing to you regarding Janet Protasiewicz. I have known Janet personally for over 2 years; having met her through the Rotary Club of Milwaukee.

During the time I have known her, Janet has demonstrated that she has excellent rapport with people of all ages. In addition, she is organized, competent and has strong communication skills.

Janet has impressed me as being very passionate about her job and serving her constituents. I believe that her experience and skills would make her an excellent candidate for the judicial position in Branch 45 of the Milwaukee County Circuit Court.

If you have any questions, do not hesitate to contact me by phone at [REDACTED] or by email: kims@parkbankonline.com.

Sincerely,


Kim D. Schaffer



OFFICE OF THE DISTRICT ATTORNEY
Milwaukee County

JOHN T. CHISHOLM · District Attorney

Chief Deputy Kent L. Lovern, Deputies James J. Martin, Patrick J. Kenney, Lovell Johnson, Jr., Jeffrey J. Altenburg

October 3, 2012

Honorable Scott Walker
Governor, State of Wisconsin
115 East Capitol
Madison WI 53702
VIA EMAIL judicialappointments@wisconsin.gov

Dear Governor Walker:

I write to ask that you strongly consider the application of Assistant District Attorney Janet Protasiewicz for an appointment to fill the judicial seat in Branch 45 recently created by the retirement of Milwaukee Circuit Court Judge Thomas P. Donegan.

Janet is an outstanding prosecutor and has shown her commitment to public service since joining the office in 1988. I have seen her excel in every responsibility assigned her. She has worked numerous and diverse assignments that have showcased her exceptional legal skills, sound judgment, compassion and willingness to take on difficult tasks and succeed.

During her 24-year tenure with the Milwaukee County District Attorney's Office, Janet has variously been assigned to our then Paternity Division; worked for many years in our juvenile division, where she ably handled Children in Need of Protective Services (CHIPS), Termination of Parental Rights (TPR) and delinquency cases; and has prosecuted adult misdemeanor and felony crimes cases as a member of our General Crimes Team, where she remains today, approaching her work in a fair and sensitive manner with great dedication and exercise of appropriate discretion.

Since 1998, Janet has served as a faculty member at the U.S. Department of Justice's National Advocacy Center. She is affiliated with several professional organizations, including the Fairchild Inns of Court and Association of Women Lawyers (AWL). She is a member of the Marquette University Law School Alumni, Basilica of St. Josaphat Foundation and Journey House boards.

Reports of Janet's professional work have been consistently superior. She has earned the respect of a wide spectrum of individuals within and outside the criminal justice system. Janet has extensive litigation and trial experience and is extremely well versed in motion, briefing and written and oral argument procedures. I believe her rounded background makes her well suited for the bench. I am confident that as a judge, Janet's vast and diverse legal expertise will allow her to serve the community in exemplary fashion.

I encourage you to give Janet's application serious consideration and would welcome the opportunity to speak with you further about her qualifications and fitness for a judicial post.

Sincerely yours,

John Chisholm
District Attorney

- Donald S. Jackson
- Gabe G. Shelton
- Gary D. Harkon
- David P. Miller
- Cynthia G. Brown
- Alanna A. Gahn
- Steven H. Glavin
- Mark S. Williams
- John H. Steber
- Thomas L. Peltier
- David Fells
- Rayann Chandler Szydzinski
- Cecile Manchester
- Kenneth R. Berg
- Warren D. Zier
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- Steven V. Ukita
- Brad Vergast
- Paul T. Giga
- Heather S. Falk
- Hyun K. DeCervo
- Dennis P. Murphy
- Bruce J. Landgraf
- Dennis J. Skoff
- Janet C. Protasiewicz
- Dakota L. Harrod
- Patricia A. McGowan
- Debra E. Ruffalo
- Karen A. Leibel
- Ronald S. Dague
- Leif S. Korbly
- Kathie O'Brien
- Heather Dorsey
- James W. Frisch
- Kurt B. Emley
- James C. Griffin
- William P. Hogg
- Jane L. Hardee
- Christopher A. Hugel
- Michael P. Kennedy
- Laura A. Grillo
- Sharon Forpe
- Kevin R. Shonka
- Beth D. Ziegler
- Karen A. Vespaic
- Mark A. Sanders
- Paul C. Dostrosky
- David T. Hinson
- Kelly L. Hedger
- Richard Stoppel
- Henry H. Scoville
- Kathryn K. Sarner
- Daniel J. Geller
- Sara P. Seifert
- T. Christopher Dea
- Jacob D. Carr
- Jay Hymowitz
- Kathleen F. Ruchow
- Elizabeth Huxler
- Gert L. Harkner
- Stephen Edward Herten
- Katherine Ackerman Hiras
- Jennifer K. Rhodes
- Cherie Starling
- Zach Whitely
- Rebecca A. Keller
- Matthew J. Torbett
- Kathryn L. Chapp
- Anthony White
- Arthur Acosta
- Nicole D. Acob
- Erin Kashian
- Lucy Wronfost
- Richard J. Lonak
- Paul H. Haase
- Sara Beth Lewis
- Jennifer Spies
- David H. Stigall
- Ambera Kriehorst
- Bonnie Watson
- Renee Hertz
- Karl P. Hayes
- Holly L. Busch
- Jacob A. Harsh
- Heather H. Hasek
- Megan H. Williamson
- Darvey B. Harsh
- Sara Sweeney
- Christopher J. Hefling
- Kristen D. Schoepf
- Kyle J. Shelton
- Dixie C. Olson
- Maureen A. Javel
- Christopher W. Rosthorne
- Jennifer L. Hanson
- Patricia L. Dougherty
- Hughan C. Kuehner
- Jon Kuebel
- Ann H. Lopez
- Edan Searcy
- Peter H. Tompkins
- Matthew G. Puffinberger
- Jessica C. Van Hock
- Randy Schubert
- Karen E. Bohring
- Kasey H. Deiss
- Nicolas J. Halman
- Chad Wroniak
- Estee E. Hart
- Kristin H. Schrack
- Claire E. Hartley
- Francesco G. Fazio
- Jana Christensen
- Tyrona H. St. Just
- Harvey R. Koberg
- Judith H. Hilly
- Antonia Schibyan
- Cynthia H. Davis
- Michael Reddiger
- Jessica A. Beninger
- William H. Lewis
- Matthew R. Wisniewski
- Caitlin A. Ruggiano
- Sara McKen Schneider
- Abby Harzick

From: Fr. Michael Glastetter [REDACTED]
Sent: Tuesday, October 02, 2012 2:28 PM
To: GOV Judicial Appointments
Subject: Milwaukee County Circuit Court Vacancy, Branch 45

Re: Janet C. Protasiewicz and Branch 45, Milwaukee County

Greetings.

I commend Janet C. Protasiewicz to you for your consideration as you fill the judicial vacancy in Branch 45 of the Milwaukee County Circuit Court.

I have known Janet for the past two years. She is a very dedicated and trustworthy woman. She is attentive in listening to others and willing to speak her mind as necessary.

Janet is committed to the local community. She is an active member of the Board of Directors of the St. Josaphat Basilica Foundation. Her dedication to the mission of the Basilica as a community asset and Milwaukee landmark is commendable.

It has been a pleasure to know Janet. I highly recommend her for your consideration.

May God bless you.

Peace,

Fr. Michael Glastetter, OFM Conv.

Rector of the Basilica of St. Josaphat, Milwaukee

Very Rev. Michael J. Glastetter, OFM Conv.
The Basilica of St. Josaphat
2333 S. Sixth Street
Milwaukee, WI 53215
www.TheBasilica.org

Hatchell, Teri - GOV

From: Williams, Mark <Mark.Williams@da.wi.gov>
Sent: Wednesday, September 26, 2012 3:16 PM
To: GOV Judicial Appointments
Subject: letter of recommendation for Assistant District Attorney Janet Protasiewicz

Follow Up Flag: Follow up
Flag Status: Completed

Dear Governor Walker,

I am writing this letter in support of Assistant District Attorney Janet Protasiewicz for the appointment to replace the Honorable Thomas Donegan for judge in Branch 45 in Milwaukee County. Assistant District Attorney Protasiewicz has been a diligent and highly competent prosecutor in the Milwaukee County District Attorney's office for many years. Her thoroughness and devotion to her work is recognized by those working within the Milwaukee County Criminal Justice System.

I am the head of the Milwaukee County District Attorney's Office Homicide Prosecution Unit. I have done over 200 homicide trials. Recently, Assistant District Attorney Protasiewicz assisted me in the prosecution of a 1st Degree Intentional Homicide trial. The trial was complicated by unique legal issues. The work of Assistant District Attorney Protasiewicz was instrumental in gaining the conviction of 1st degree Intentional Homicide. She demonstrated abilities as a skilled trial attorney, and showed understanding of the complicated legal issues that arose in the case.

Assistant District Attorney Protasiewicz is a person of integrity. She demonstrates in her work fairness to all parties. Her temperament is measured and compassionate. I believe Assistant District Attorney Janet Protasiewicz would be a superior choice to fulfill Judge Donegan's term. Her appointment would benefit Milwaukee County.

Mark Williams

Assistant District Attorney

Hatchell, Teri - GOV

From: linda johnson [REDACTED]
Sent: Wednesday, September 26, 2012 9:25 PM
To: GOV Judicial Appointments
Subject: letter of recommendation for Janet Protasiewicz

Follow Up Flag: Follow up
Flag Status: Completed

Dear Governor Walker,

I am writing this letter in support of Milwaukee County Assistant District Attorney Janet Protasiewicz for the appointment of Circuit Court Judge. I am a former assistant district attorney, who worked with Janet for over 20 years prior to my retirement in June 2009. Janet is an intelligent, hard working, fair minded prosecutor with excellent trial practice skills. She is also a very caring and compassionate individual. In short, I believe Janet has the intelligence, commitment, compassion, and temperment to make an excellent judge. She would be a superb addition to the Milwaukee County judiciary.

Sincerely yours,

Linda Johnson
Attorney At Law

Hatchell, Teri - GOV

From: Christy A. Brooks <CBROOKS@vonbriesen.com>
Sent: Thursday, September 27, 2012 3:42 PM
To: GOV Judicial Appointments
Subject: Judicial Application for Branch 45, Milwaukee County Circuit Court

Follow Up Flag: Follow up
Flag Status: Completed

To Whom It May Concern:

I write to recommend Atty. Janet Protasiewicz as you choose the best person to fill the vacancy in Branch 45 of the Milwaukee County Circuit Court.

Janet's collegiality and ability to draw many people together are qualities that set her apart from traditional veteran assistant District attorneys. While her work is arduous, she brings creative and practical energy to work that could seem old and tired to others; she also is different in her community work and personal relationships all across Milwaukee's legal landscape. As so many who know her think: There aren't many local good causes that haven't received some improvement from Janet. She's wonderfully smart, but unusually approachable. She has a respect for humanity that self-focused judges can forget is important. She is not shy or uncomfortable with the responsibility to answer to the public.

Her appointment also would mean something beyond the norm that would help Milwaukee's citizens and lawyers: she's not young, untested, limited in life experiences, or idealistic. She has respected tenure, a long view and a mature responsibility to many corners of the county.

I hope as you look at her work, the following example of what makes Janet right for this appointment will impress you: as she volunteers for The Girls in the House Project of Journey House, she doesn't just give money or go to their school near 23rd and Greenfield at night to help teach them about the law; she also invites about 25 of those girls and young women, their moms and their children, to her home to teach them to cook and enjoy a grand meal with the rest of us who follow in Janet's wake to see what can really make a difference. She makes sure doors are wide open for better experiences.

I think she'll make a real and good difference on our Bench, and I hope you can make that happen for us. Please feel free to contact me for more information.

Sincerely,

Christy A. Brooks
von Briesen & Roper, s.c.
411 East Wisconsin Avenue, Suite 1000
Milwaukee, WI 53202

Direct: 414-287-1232
Fax: 414-238-6517
cbrooks@vonbriesen.com | vcard | bio
vonbriesen.com

Barbara A. O'Brien
Direct Dial: 414-287-9135
Email: bobrien@borgelt.com

September 27, 2012,

Office of Governor Scott Walker
Attn: Chief Legal Counsel
115 East State Capitol
Madison, WI 53702

Re: Janet C. Protasiewicz/Milwaukee County Circuit Court Judge Appointment

Dear Governor Walker:

I am writing to encourage you to appoint Janet Protasiewicz to fill the judicial vacancy in Branch 45 of the Milwaukee County Circuit Court. I have known Janet personally for over 25 years, since attending law school together. I feel that her integrity, intelligence, and experience make her an excellent candidate for Circuit Court Judge.

In recent years, I have served with Janet on the Marquette University Law School Alumni Board. She is hard-working and dedicated and regularly volunteers for committees and activities as a board member. I know that she is also very involved in the community, routinely volunteering to assist those in need.

I strongly urge you to appoint Janet as a Milwaukee Circuit Court Judge, Branch 45. If you have any questions, please do not hesitate to contact me.

Very truly yours,



Barbara A. O'Brien



OFFICE OF THE DISTRICT ATTORNEY
Milwaukee County

JOHN T. CHISHOLM • District Attorney

Chief Deputy Kent L. Lovern, Deputies James J. Martin, Patrick J. Kenney, Lovell Johnson, Jr., Jeffrey J. Altenburg

October 3, 2012

Office of Governor Scott Walker
 Attn: Chief Legal Counsel
 115 E State Capitol
 Madison WI 53702

Re: Judicial Application of Janet Protasiewicz for Branch 45,
 Milwaukee County Circuit Court

Dear Governor Walker:

I am a Deputy District Attorney for the Milwaukee County District Attorney's Office and for over 20 years I have known and worked with Assistant District Attorney Janet Protasiewicz. Based upon those years of working with her, I believe she would make an outstanding choice to fill the judicial vacancy in Branch 45.

Attorney Protasiewicz possesses a number of qualities that would make her an outstanding judge. First, she has an outstanding legal mind. She has always amazed me by how quickly she is able to accurately sift through facts of the most difficult cases and correctly evaluate both the facts and the law. Secondly, she cares about the Milwaukee community. I have seldom met a person that is as active in her community, both locally and state wide. Her activity in the community is not something that she just recently started for the purpose of positioning herself in some type of office. She's active because she cares about Milwaukee County as well as the State of Wisconsin. That caring shines forth in everything she does, be it working with the Polish Community Center or through other groups.

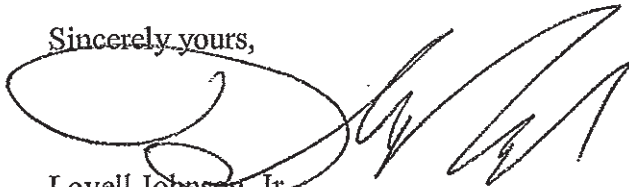
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- Thomas L. Pokter
- David Weiss
- Rayann Chandler Seydick
- Carole Manchester
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- Warren D. Zier
- Timothy J. Cotter
- Steven V. Uccia
- Brad Vorpahl
- Paul Tiffin
- Marion S. Feik
- Phyllis H. DeCarvalho
- Dennis P. Murphy
- Bruce J. Langstaff
- Dennis J. Singsl
- Janet C. Protasiewicz
- DeAnn L. Heard
- Patricia A. McGowan
- Inese E. Parthum
- Karen A. Loebel
- Ronald S. Dequa
- Lori S. Kornblum
- Kerline O'Byrne
- Marisa Dorsay
- James W. Firsch
- Kurt B. Berkey
- James C. Griffin
- William P. Papp
- Josanna L. Hardie
- Christopher A. Uegler
- Hagen P. Camroy
- Laura A. Crivello
- Shawn Pompe
- Kevin R. Stemin
- Beth D. Zingel
- Karen A. Vaspek
- Mark A. Sanders
- Paul C. Dedinsky
- David T. Malone
- Kelly L. Hedge
- Rachael Stencel
- Mary M. Swenhold
- Kathryn K. Semer
- Daniel J. Gabler
- Sara P. Scutten
- T. Christopher Dee
- Jacob D. Carr
- Joy Harrison
- Katherine F. Kucharski
- Elizabeth Husler
- Grant J. Husler
- Stephen Edwards Noltan
- Nichole Ackerman Hovas
- Jennifer K. Rhodes
- Claire Starling
- Zach Wilfong
- Rebecca A. Keifer
- Matthew J. Torbenson
- Kathryn L. Childs
- Anthony White
- Antoni Apello
- Nicole D. Loeb
- Erin Kaushen
- Lucy Kronkrost
- Michael J. Lonski
- Paul M. Hauer
- Sara Beth Lewis
- Jared Eyles
- David H. Staggli
- Amanda Kirkland
- Benjamin Wesson
- Russell Hertz
- Karl P. Hayes
- Holly L. Bunch
- Jacob A. Haxton
- Heather M. Facek
- Megan M. Williamson
- Dewey B. Martin
- Sara Sweeney
- Christopher J. Ludwig
- Kimberly D. Schoepf
- Nicole J. Shelton
- Dax C. Odum
- Maureen A. Abell
- Christopher W. Rawsthorne
- Jennifer L. Hanson
- Patricia I. Dougherty
- Meghan C. Urdberg
- Jon Hejlsch
- Ann M. Lopez
- Brian Sammons
- Peter M. Tempels
- Matthew G. Puthutalam
- Jeremiah C. Van Haden
- Randy Struberg
- Karyn E. Belling
- Kasey M. Deiss
- Nicolas J. Heitman
- Chad Wazniak
- Estee E. Hart
- Kristin H. Schwank
- Claire E. Hartley
- Francesca G. Milano
- Jane Christopherson
- Tyrene H. St. Juner
- Hannah R. Kolberg
- Kristina M. Hethy
- Antonia Schlegel
- Cynthia M. Davis
- Kristen Redinger
- Jeska A. Beilerger
- William H. Lewis
- Matthew R. Westphal
- Caitlin A. Ringersma
- Sara Volken Schroeder
- Abbey Harzick

circumstances surrounding the crime require it. However, I do believe she has the ability to judge a situation on its merits and reach a decision that would be fair and just for all involved.

I am a life long resident of Milwaukee County, the State of Wisconsin and a life long Democrat so I'm not sure how this recommendation will be received by your office. But if you are looking for someone that would embrace the position of circuit court judge completely and ethically and would be an asset not only to this community but to the State of Wisconsin, I do not believe you could make a better choice than Janet Protasiewicz. Thank you.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Lovell Johnson, Jr.', written over a large, light-colored oval stamp.

Lovell Johnson, Jr.
Deputy District Attorney
Milwaukee County

LJ/sks

IRENE E. PARTHUM

Hales Corners, WI 53130

September 25, 2012

Office of The Honorable Governor Scott Walker
Attn: Chief Legal Counsel
115 East State Capitol
Madison, WI 53702

RE: Judicial Appointment to Milwaukee County Circuit Court Branch 45
Letter of Support for Janet C. Protasiewicz

Dear Governor Walker:

I am writing to you in support of the application for judicial appointment of Janet Protasiewicz. Janet and I met during our attendance at Marquette University Law School in 1988, and have both spent our entire legal careers as prosecutors in the Milwaukee County District Attorney's Office.

I wholeheartedly recommend Janet for this appointment, because you could not find a finer person to represent the ethics and judgment needed as a circuit court judge than you find in her. Janet is exceptionally bright, as evidenced by her stellar academic credentials. What she doesn't mention, because she is modest, is that while she was in high school, college, and law school she was also working at several jobs to defray her academic expenses. She is truly a self-made person, which is a credit to the Milwaukee values she was raised with, and her hard working nature.

Janet has always been involved in numerous worthy civic activities, despite being devoted to her extended family and her professional duties. Whether it is fundraising for St. Josephat's Basilica, or teaching cooking classes in her home to disadvantaged girls she met volunteering for Journey House, or rounding up friends to donate to a food bank, Janet is a force of nature! I have always been amazed at her ability to juggle so many activities, while devoting so much time to her work as an Assistant District Attorney.

In every assignment she has occupied in our office, she has excelled. Everyone dearly loves working with Janet, from the file clerks, to the attorneys, to the judges and their staffs. She has that uncanny knack of making every person feel valued, special, and listened to by her. These are people skills that are invaluable in a judge.

Janet has the highest ethical code she lives and works by. She is always highly prepared for her cases, no matter how challenging, and she is tenacious. She is

flexible when things go wrong in a case, which happens frequently in criminal cases, and she fights for the rights of victims, while treating adversary counsel and the defendants with respect.

She possesses so many fine qualities that it difficult to put them into a short letter to you, but I guarantee that if you give her the opportunity to expand her service to the people of the State of Wisconsin by appointing her to fill the balance of Judge Donegan's term in Branch 45, you could not find a more suitable successor. She has the intelligence, judicial demeanor, evenhandedness, toughness under pressure, and essential fairness to make you and Wisconsin proud.

I hope you will afford yourself the opportunity to personally interview Janet, so that you can take a measure of her as a person. If you do, I know that you will find her the suitable person to appoint to this important position.

Thank you for your attention to this letter of recommendation. If you or your staff wish further information from me, I can be reached on my cell at [REDACTED]

Very truly yours,



Irene E. Parthum



OFFICE OF THE DISTRICT ATTORNEY
Milwaukee County

JOHN T. CHISHOLM • District Attorney

Chief Deputy Kent L. Lovorn, Deputies James J. Martin, Patrick J. Kenney, Lovell Johnson, Jr., Jeffrey J. Altenburg

September 27, 2012

Governor Scott Walker
c/o Chief Legal Counsel
115 East State Capitol
Madison, WI 53702

RE: Janet Protasiewicz

Dear Governor Walker:

I write on behalf of Assistant District Attorney Janet Protasiewicz, an applicant for appointment to Branch 45 of the Milwaukee County Circuit Court. I have worked as a prosecutor in Milwaukee County for 27 years and over the last four years I've worked very closely with Janet on one of our General Crimes prosecution teams. Janet has earned exceptionally high grades for her performance, as well as a reputation for reliability, punctuality, and all-around competence as a prosecutor.

Over her many years in this office, in several different assignments, Janet has become an accomplished litigator and outstanding trial attorney. Janet has also shown exceptional dedication to her cases, to her victims, and most importantly, to doing Justice. In addition to all that, Janet has demonstrated great compassion for, and excellent communication with, victims, witnesses, and others in the criminal justice system. Such "people skills" helped make her a great prosecutor and would, I believe, serve her equally well as a judge.

Janet Protasiewicz has refined her skills as an attorney, counselor, and litigator in a busy urban DA's Office. The people of Milwaukee County have already benefited from those considerable skills, and would continue to do so were Janet appointed to the bench.

Thank you for considering these observations when assessing Janet's candidacy. Should you wish any further details, my direct line here is [REDACTED]

Very truly yours,

Thomas L. Potter
Assistant District Attorney

- Donald S. Jackson
- Gale G. Shelton
- Gary D. Mahlum
- David Robles
- Cynthia G. Brown
- Norman A. Gahn
- Steven H. Gamm
- Mark S. Williams
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- Warren D. Zier
- Timothy J. Colter
- Steven V. Urcia
- Brad Morpahl
- Paul Tiffin
- Miriam S. Falk
- Phyllis M. DeGuevisho
- Dennis P. Murphy
- Ernest J. Landgraf
- Doris J. Seng
- Janet C. Protasiewicz
- DeAnn L. Heard
- Patrick A. McGowan
- Irene E. Farham
- Karen A. Loebel
- Ronald S. Deppa
- Leif S. Karmann
- Ka'rine O'Rourke
- Maria Dorsey
- James W. Friesch
- Karl B. DeWey
- James C. Griffin
- William P. Pipp
- Jeanne L. Herdick
- Christopher A. Upp
- Megan P. Garmody
- Erin A. Orsello
- Shawn Foxpe
- Kevin R. Shorn
- Beth D. Ziegler
- Karen A. Vespalec
- Mark A. Sandras
- Paul C. Dedinsky
- David T. Helene
- Kelly L. Hedge
- Rachael Stenzel
- Rory M. Sawinski
- Kathryn K. Sanner
- David J. Gable
- Sara F. Scuffin
- T. Christopher Doe
- Jacob D. Corr
- Joy Hammond
- Katharine F. Kucharski
- Elizabeth Huether
- Grant L. Huether
- Stephan Edward Noltan
- Michelle Ackerman Herold
- Jennifer K. Rhodes
- Chloe Starling
- Zach Whitney
- Rebecca A. Kiefer
- Matthew J. Tolareon
- Katrina L. Childs
- Anthony White
- Arnell Apollo
- Keole D. Loeb
- Erin Karshan
- Lucy Brodzinski
- Michael J. Lorell
- Paul H. Hauer
- Sara Beth Lewis
- Jared Spies
- David M. Stegall
- Amanda Kirkwood
- Benjamin Wesson
- Renee Heintz
- Karl P. Hayes
- Holly L. Burch
- Jacob A. Herlan
- Heather H. Plack
- Megan M. Williamson
- Dewey B. Martin
- Sara Sweeney
- Christopher J. Ledwig
- Kimberly D. Schoep
- Noelle J. Shelton
- Dax C. Odum
- Houman A. Adwell
- Christophe W. Rappert
- Jennifer L. Hixon
- Patricia I. Daugherty
- Meghan C. Lindberg
- Jon Neuleb
- Ann M. Lopez
- Brian Sammons
- Paul H. Tempelis
- Marthar G. Pufalukam
- Jeremiah C. Van Haden
- Randy Stoberger
- Kayn E. Berling
- Kasey H. Deiss
- Nicolas J. Heitman
- Chad Wozniak
- Estee E. Hart
- Kristin H. Schenk
- Olivia E. Hartley
- Francesco G. Mineo
- Jane Christopherson
- Tyrone H. St. Junior
- Norina R. Kozberg
- Jessica M. Hattis
- Antonella Schildgen
- Cynthia H. Davis
- Kristen Redinger
- Jessica A. Ballenger
- William M. Lewis
- Matthew R. Westphal
- Caitlin A. Ringersma
- Sara Volken Schroeder
- Albee Marick

Michael J. Lonski
Assistant District Attorney
Office of District Attorney for Milwaukee County
821 W. State St.
Milwaukee WI 53233
Tel. 414- 278-4646

October 1, 2012

Office of Governor Scott Walker
Attn: Chief Legal Counsel
115 East State Capitol
Madison WI 53702

judicialappointments@wisconsin.gov

Dear Governor Walker and Chief Legal Counsel:

Please accept this letter as my recommendation that you appoint Assistant District Attorney Janet Protasiewicz to the position of Circuit Court Judge.

My recommendation is based on what I have learned about Janet over many years of dealing with her, first as an adversary counsel and then as a co-worker. I met Janet in the 1990's when I worked in private practice and handled criminal defense matters in Milwaukee County. I eventually left private practice and now work as an assistant district attorney; currently I am assigned to a small team of prosecutors where I work closely with Janet.

Janet has become the first person I seek out when I have a special concern about one of my cases. These concerns run the gamut from questions about legal matters, about evidence, about how to present and argue a case, about difficulties with victims, witnesses or police, about the fairness of bringing a certain charge or seeking a certain sentence, and about ethical or moral concerns.

There are many reasons I have come to trust Janet's advice and judgment. The remainder of this letter sets forth the main ones.

Janet is competent. She is both book smart and common sense smart. She has been working in the criminal justice system for decades and has experience dealing with most every issue that arises. I have seen her many times in the courtroom, and I can attest that her trial skills and ability to organize and present a case are top notch. Her legal knowledge and writing skills are likewise excellent, yet she does not come off as an academic type of person; instead, she has an almost uncanny ability to connect with ordinary people, be they jurors, victims, witnesses, or police officers. Janet understands people, and people understand her.

Joel A. Mogren
Attorney at Law

735 West Wisconsin Avenue
12th Floor
Milwaukee, Wisconsin 53233
(414) 326-3261
(Fax) 224-1411
mogrencriminaldefense.com

September 25, 2012

Office of Governor Scott Walker
ATTN: Chief Legal Counsel
115 East State Capitol
Madison, WI 53702

judicialappointments@wisconsin.gov

**RE: Appointment of Janet Protasiewicz to Milwaukee Circuit Court Judge,
Branch 45**

To Whom It May Concern:

Since becoming a lawyer in 2002, I have represented numerous defendants who were prosecuted by Ms. Protasiewicz. As such, I have come to know Ms. Protasiewicz, and more importantly, I have come to respect her judgment and demeanor both in and out of the courtroom.

Ms. Protasiewicz is not only an advocate for the Milwaukee County District Attorney's Office, but an ambadress of the law. Ms. Protasiewicz embodies the **Attorney's Oath – SCR 40:15**. Ms. Protasiewicz would never proceed with a prosecution that she believed to be unjust; never "mislead the judge or jury by any artifice or false statement of fact or law"; and certainly, she would never demonstrate an "offensive personality." *Id.*

I have no doubt that Ms. Protasiewicz will bring these same qualities to the bench. Today, far too many people believe that the judiciary is unfair, unjust, and unkind because of the very people who preside in the courtrooms throughout our state. Ms. Protasiewicz has the ability to instill in people the belief that the system is fair and just because she possesses the appropriate character to be just what the system needs: a neutral magistrate.

For these reasons, I give Ms. Protasiewicz my highest endorsement for the position of Milwaukee Circuit Court Judge, Branch 45. Additionally, if you have any other questions regarding Ms. Protasiewicz, please feel free to contact me.

Sincerely,

/s/ *Joel A. Mogren*

Joel A. Mogren



Journey House Center for Family Learning and Youth Athletics

2110 West Scott Street

Milwaukee, WI 53204

414-647-0548 Phone

414-647-0266 Fax

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James Williams, Ed.D.
Milwaukee Area Technical College

Michele Bria, Ph.D.
Chief Executive Officer

September 27, 2012

Office of Governor Scott Walker
115 East State Capitol
Madison, WI 53702

Re: Judicial Application of Janet C. Protasiewicz

Attn: Chief Legal Counsel

I highly recommend Janet C. Protasiewicz to the Milwaukee County Circuit Court, Branch 45. I have known Attorney Protasiewicz for over five years through her community volunteerism and leadership at the Journey House, which is a community based organization located on Milwaukee's near Southside. She also serves as a board of director for our Journey House Charitable Foundation. For two years, she co-chaired a major initiative for Professional Dimensions, which focused on developing our Journey House Girls in the House members into young women with positive lifestyles and career pathways.

Attorney Protasiewicz is an exemplary female leader and role model for our young women. She even opens her home to our girls to teach them how to cook healthy. Her home-cooking classes were so popular that even the girls' mothers began to attend. Attorney Protasiewicz is phenomenal at building bridges and healthy relationships between our young women and their moms. Our youth admire her. They immediately recognize her authentic and genuine interest to help and empower them. Attorney Protasiewicz is always fair, open, and takes action with the highest of integrity and ethical professionalism.

I believe that if she were chosen for the Milwaukee County Circuit Court, Branch 45, she would be an incredibly effective judge and a very respected community role model, especially for our young women in our urban centers. Attorney Protasiewicz's community volunteerism and leadership is outstanding. I know that this leadership would continue to broaden and grow as Circuit Court Judge for Branch 45.

If you would like to discuss my recommendation further, please feel free to contact me at (414) 647-0548, ext. 101 or mbria@journeyhouse.org.

Sincerely,

Signature

Michele Bria, Ph.D.
Chief Executive Officer

Journey House Center for Family Learning and Youth Athletics

Where Education is a Family Journey

www.journeyhouse.org

www.facebook.com/journeyhouse



United Neighborhood
Centers of Milwaukee



Wisconsin Technical College System





P.O. Box 7863
MADISON, WI 53707

October 11, 2012

Janet Protasiewicz
[REDACTED]

Franklin, WI 53132

Dear Ms. Protasiewicz,

Thank you for applying for an appointment to serve as a Wisconsin state judge, and for participating in the recent interview process.

I am writing to inform you that you have not been selected to interview with the Governor. The Wisconsin judiciary has a proud tradition and we appreciate your interest in serving our state. I wish you the best in your future endeavors.

Sincerely,

Brian Hagedorn
Chief Legal Counsel
Office of Governor Scott Walker