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| **STATE OF WISCONSIN CIRCUIT COURT** |      **COUNTY** |
| STATE OF WISCONSIN, Plaintiff, v. Case No.      , Defendant. |
| **DEFENDANT’S MOTION TO STAY SENTENCE AND** **SET BOND PENDING APPEAL** |

TO: The Honorable       ADA

       County Circuit Court Judge       County District Attorney

 {Street Address} {Street Address}

 {City, State, Zip} {City, State, Zip}

**PLEASE TAKE NOTICE**,      , by Counsel, moves the Court for a stay of their sentence and release on bond pending appeal.       brings this motion pursuant to Wis. Stats. §§ 809.31, 969.01, 969.08, and 969.09 and Article I, sections 6, 7, and 8 of the Wisconsin Constitution.

1. Courts in Wisconsin may stay an imposed sentence and grant the defendant release while an appeal is pending. Wis. Stat. §§ 969.01(2)(b)-(c) [[1]](#footnote-1), 809.31. Release on bond pending seeking postconviction relief may be granted if the Court finds:

* 1. There is no substantial risk the appellant will not appear to answer the judgment following the conclusion of postconviction proceedings;
	2. The defendant is not likely to commit a serious crime, intimidate witnesses, or otherwise interfere with the administration of justice;
	3. The defendant will promptly prosecute postconviction proceedings; and
	4. The postconviction proceedings are not taken for purposes of delay.

Wis. Stat. § 809.31(3).

2. In this case, each factor weighs in favor of release pending appeal.

1. **’s court attendance indicates there is no substantial risk they will not appear to answer the judgment following the conclusion of postconviction proceedings.**

{list reasons, facts, why client WILL appear at future hearings}.

1. **is not likely to commit a serious crime, intimidate witnesses, or otherwise interfere in the administration of justice, and is attempting to take steps to ensure this.**

There is nothing to indicate that       will commit a serious crime or interfere in the administration of justice. From the information available,       has never been accused of a “serious crime” as defined in the statutes. *See* Wis. Stat. § 969.08(10)(b). Given that, it is not likely that they would do so now.

{is client receiving treatment from a doctor or therapy, other things within the community?}

1. **plans to immediately initiate the postconviction process.**      plans to file their Notice of Intent to Seek Postconviction Relief as soon as the Judgment of Conviction is filed.
2. **has meritorious postconviction issues that are pursued in the interest of justice and not for delay.**

The postconviction relief sought is not for the purposes of delay. {are there meritorious issues that will need to be addressed?}.

3.       has a right to appeal, and the injury they will suffer by being sent to [prison/jail] if their convictions are reversed outweighs any concerns the Court may have regarding swift sentence implementation or doubts regarding the merits of the underlying appeal.

For all these reasons,       moves this Court to stay their sentence pending appeal and grant release during the pendency of the appeal process.

 Dated this      day of      ,      .

 *Electronically signed by*

 {ATTORNEY}

 {Title}

 State Bar No. @

 {Street Address}

 {City, State, Zip}

1. In misdemeanors and felonies, “release may be allowed upon appeal at the discretion of the trial court.” Wis. Stat. § 969.01(2)(b)-(c). [↑](#footnote-ref-1)