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**DISTRICT I**

March 3, 2026

To:

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Electronic Notice

Sarah Catherine Geers  
Electronic Notice

Anna Hodges  
Clerk of Circuit Court  
Milwaukee County Safety Building  
Electronic Notice

Rose Lee VanElderen  
Electronic Notice

You are hereby notified that the Court has entered the following opinion and order:

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2024AP1960-CR

State of Wisconsin v. Amber L. Niebuhr (L.C. # 2018CF141)

Before White, C.J., Donald, and Geenen, JJ.

**Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).**

Amber L. Niebuhr appeals a judgment, entered following a jury trial, convicting her of physical abuse of a child for recklessly causing great bodily harm to a child, Maria.<sup>1</sup> On appeal, Niebuhr argues that the circuit court improperly excluded evidence regarding Niebuhr's relationship with Maria and Maria's mother, Jane, and Niebuhr's past experience as a child caregiver. Niebuhr also argues that the circuit court erred by denying her motion for a directed

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<sup>1</sup> Pursuant to the policy underlying WIS. STAT. RULE 809.86(4) (2023-24), the State uses the pseudonyms "Maria" for the victim and "Jane" for the victim's mother in its brief, and we do the same.

All references to the Wisconsin Statutes are to the 2023-24 version.

verdict. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. Because Niebuhr fails to properly develop a reviewable argument and ensure the completeness of the appellate record, we affirm.

### **BACKGROUND**

Niebuhr was charged with physical abuse of a child for recklessly causing great bodily harm to twenty-three-month-old Maria. According to the criminal complaint, on November 29, 2017, Jane dropped Maria off at Niebuhr's home. While in Niebuhr's care, Maria suffered a severe brain injury. According to Niebuhr, Maria fell in the bathtub. Niebuhr called 911 and Maria was transported to the hospital.

At the hospital, Maria was diagnosed with multiple injuries including: bilateral subdural hemorrhages, bilateral retinal hemorrhages, a primary brain injury with an altered mental state, a secondary brain injury with hypoxic ischemic encephalopathy, cervical spinal subdural hemorrhage, a left radius fracture, and paraspinal and buttock muscle edema. Dr. Casey Brown of Children's Hospital of Wisconsin opined that the injuries were not consistent with a simple fall, but with physical abuse.

A multiple-day jury trial took place. Portions of the trial transcripts are not included in the record on appeal. Based on the available record, it appears that the State's witnesses included testimony from the first responder to the scene, a detective, Jane, and Dr. Angela Rabbitt. Niebuhr presented testimony from Dr. Evans Matshes and Dr. Chris Van Ee. Niebuhr also testified on her behalf.

The jury found Niebuhr guilty of physical abuse of a child for recklessly causing great bodily harm to Maria. The circuit court sentenced Niebuhr to seven years of initial confinement and five years of extended supervision.

Niebuhr filed a notice of appeal and a statement on transcript. On October 1, 2024, this court's clerk advised Niebuhr that the statement on transcript was defective. No corrected statement on transcript was filed.

On November 1, 2024, this court instructed Niebuhr to file a proper statement on transcript within five days. Niebuhr moved for an extension of time to November 20, 2024, which was granted.

On December 12, 2024, Niebuhr filed multiple defective statements on transcript and a motion for an extension of time to file a brief. In the motion, Niebuhr indicated that there were uncompleted transcripts.

In an order dated January 2, 2025, this court struck the defective statements, held the appeal in abeyance, and directed Niebuhr to file properly completed statements on transcript for any outstanding transcripts by January 24, 2025. The order cautioned Niebuhr that if properly completed statements on transcript were not received, this court would advance the appeal on the record as it stands, without the filing of any additional transcripts not already part of the record. The order further warned Niebuhr that it is the appellant's responsibility to ensure the record on appeal is complete and when transcripts are missing from the record, this court assumes that they support affirming the circuit court's decision. *Fiumefreddo v. McLean*, 174 Wis. 2d 10, 26-27, 496 N.W.2d 226 (Ct. App. 1993).

Niebuhr failed to file completed statements on transcript or any other response by the extended deadline, so this court ordered that the appeal would proceed on the currently existing record.

### DISCUSSION

On appeal, Niebuhr argues that the circuit court improperly excluded evidence regarding Niebuhr's "positive" relationship with Maria and Jane and Niebuhr's past experience as a child caregiver.<sup>2</sup> Niebuhr also argues that the circuit court erred by denying her motion for a directed verdict. According to Niebuhr, the State failed to establish sufficient evidence that she recklessly caused great bodily harm. We conclude Niebuhr is not entitled to relief.

First, Niebuhr fails to develop a reviewable argument. Her brief lacks any citation to the appellate record. *See* WIS. STAT. RULE 809.19(1)(d) (providing that an appellant's brief must include "a statement of facts relevant to the issues presented for review, with appropriate references to the record"); RULE 809.19(1)(e) (providing that the argument on each issue in an appellate brief must "contain the contention of the appellant, the reasons therefor, with citations to the authorities, statutes and parts of the record relied on"). Rather, her brief improperly cites only to the appendix. *See United Rentals, Inc. v. City of Madison*, 2007 WI App 131, ¶1 n.2, 302 Wis. 2d 245, 733 N.W.2d 322 (observing that citing to an appendix is improper). We will not consider arguments that are not supported by appropriate references to the record. *State v.*

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<sup>2</sup> Niebuhr's brief asserts that she was "close friends with Jane for twenty years," Niebuhr cared for Maria since she was eleven months old, and there "had been no issues during that entire time of care." Additionally, Niebuhr asserts she cared for other children as well and there were no issues reported.

*Lass*, 194 Wis. 2d 591, 604, 535 N.W.2d 904 (Ct. App. 1995); *State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992).

Second, and most significantly, critical portions of the trial transcripts are missing from the appellate record. From what we can discern, the missing portions include, but are not limited to, testimony from the first responder to the scene, a portion of Jane’s testimony, and a portion of Niebuhr’s testimony.<sup>3</sup>

It is the appellant’s responsibility to ensure that this court is provided with an adequate record. *Fiumefreddo*, 174 Wis. 2d at 26-27. Absent a complete record, an appellate court will assume “that every fact essential to sustain the [circuit] court’s decision is supported by the record.” *Fischer v. Wisconsin Patients Comp. Fund*, 2002 WI App 192, ¶6 n.4, 256 Wis. 2d 848, 650 N.W.2d 75. Here, without the complete trial transcripts in the record, we are unable to meaningfully evaluate Niebuhr’s challenges to the circuit court’s decisions. Because it was Niebuhr’s responsibility to provide the necessary transcripts, we affirm.

Therefore,

IT IS ORDERED that the judgment is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

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*Samuel A. Christensen*  
*Clerk of Court of Appeals*

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<sup>3</sup> We note that additional portions of the trial transcripts are located in Niebuhr’s appendix. A document contained in an appendix is not an adequate substitute for a document in the appellate record. We cannot consider any materials that are contained in an appendix but not in the record on appeal. *Roy v. St. Lukes Med. Ctr.*, 2007 WI App 218, ¶10 n.1, 305 Wis. 2d 658, 741 N.W.2d 256.