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**DISTRICT III**

December 5, 2023

To:

Hon. Tammy Jo Hock  
Circuit Court Judge  
Electronic Notice

Jennifer L. Vandermeuse  
Electronic Notice

John VanderLeest  
Clerk of Circuit Court  
Brown County Courthouse  
Electronic Notice

Danny Torres-Fernandez 474381  
Columbia Corr. Inst.  
P.O. Box 900  
Portage, WI 53901-0900

Patricia Sommer  
Electronic Notice

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

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2022AP90-CRNM      State of Wisconsin v. Danny Torres-Fernandez  
(L. C. No. 2019CF904)

Before Stark, P.J., Hruz and Gill, 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).**

Counsel for Danny Torres-Fernandez has filed a no-merit report concluding that no grounds exist to challenge Torres-Fernandez's convictions for second-degree sexual assault, by use of force; false imprisonment; and misdemeanor bail jumping. Torres-Fernandez filed responses asserting his innocence.<sup>1</sup> Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude there is no arguable merit to any issue

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<sup>1</sup> Torres-Fernandez filed a response in Spanish and a response in broken English. The former response was translated into English by order of this court.

that could be raised on appeal. Therefore, we summarily affirm the judgment of conviction. *See* WIS. STAT. RULE 809.21 (2021-22).<sup>2</sup>

The State charged Torres-Fernandez with second-degree sexual assault; false imprisonment; strangulation and suffocation; felony bail jumping; and misdemeanor bail jumping. The charges arose from allegations that Torres-Fernandez repeatedly sexually assaulted his then ex-girlfriend, Nancy,<sup>3</sup> over a four-hour period. According to the complaint, Torres-Fernandez threatened to “beat the shit” out of Nancy; grabbed Nancy by the neck, making it hard for her to breathe; and prevented her from leaving her apartment. Torres-Fernandez had been released on bond in a different case at the time of the assault.

On waiver of his right to a preliminary hearing, Torres-Fernandez confirmed that he could read, write, and understand English. Nevertheless, an interpreter was present for the plea and sentencing hearings, as Torres-Fernandez estimated a 70-80% understanding of the English language. Pursuant to a plea agreement, Torres-Fernandez entered no-contest pleas to second-degree sexual assault, by use of force; false imprisonment; and misdemeanor bail jumping. In exchange for his no-contest pleas, the State recommended that the circuit court dismiss and read in the remaining counts.<sup>4</sup> Out of a total potential sentence of forty-six years and nine months, the court ultimately imposed consecutive and concurrent sentences resulting in an

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<sup>2</sup> All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

<sup>3</sup> Pursuant to the policy underlying WIS. STAT. RULE 809.86(4), we use a pseudonym instead of the victim’s name.

<sup>4</sup> Brown County case Nos. 2019CF434 and 2019CM365 were also resolved pursuant to the plea agreement. A review of those cases is not before us in this appeal.

aggregate twenty-five and one-half year term, consisting of thirteen and one-half years of initial confinement followed by twelve years of extended supervision.

The no-merit report addresses whether Torres-Fernandez knowingly, intelligently, and voluntarily entered his no-contest pleas and whether the circuit court properly exercised its sentencing discretion. Upon reviewing the record, we agree with counsel's description, analysis, and conclusion that any challenge to Torres-Fernandez's pleas or sentences would lack arguable merit. Although the no-merit report does not specifically mention it, the record shows that the court advised Torres-Fernandez of the deportation consequences of his pleas, as mandated by WIS. STAT. § 971.08(1)(c). The no-merit report otherwise sets forth an adequate discussion of any other issues to support the no-merit conclusion, and we need not address them further.

In response to the no-merit report, Torres-Fernandez claims he is innocent of the crimes for which he was convicted. However, with some exceptions not relevant here, Torres-Fernandez's valid no-contest pleas waived all nonjurisdictional defects and defenses. *See State v. Kelty*, 2006 WI 101, ¶¶18 & n.11, 34, 294 Wis. 2d 62, 716 N.W.2d 886. Our independent review of the record discloses no other potential issue for appeal.

Therefore,

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

IT IS FURTHER ORDERED that Attorney Patricia Sommer is relieved of her obligation to further represent Danny Torres-Fernandez in this matter. *See* WIS. STAT. RULE 809.32(3).

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*