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110 EAST MAIN STREET, SUITE 215  
P.O. BOX 1688  
MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880  
TTY: (800) 947-3529  
Facsimile (608) 267-0640  
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**DISTRICT II**

March 6, 2024

To:

Hon. Kristine E. Drettwan  
Circuit Court Judge  
Electronic Notice

Michele Jacobs  
Clerk of Circuit Court  
Walworth County Courthouse  
Electronic Notice

Olivia Garman  
Electronic Notice

Pamela Moorshead  
State Public Defender  
Suite 912  
735 N. Water St.  
Milwaukee, WI 53202-4116

Jennifer L. Vandermeuse  
Electronic Notice

Jason L. Grant  
Mendota Mental Health Institute  
301 Troy Drive  
Madison, WI 53704

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

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2023AP1938-CRNM      State of Wisconsin v. Jason L. Grant (L.C. #2014CF471)

Before Neubauer, Grogan and Lazar, 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).**

Jason L. Grant appeals from an order denying his petition for conditional release under WIS. STAT. § 971.17(4) (2021-22).<sup>1</sup> His appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 and *Anders v. California*, 386 U.S. 738 (1967). Grant received a copy of the report, was advised of his right to file a response, and has responded. Upon consideration

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

of the report, Grant's response, and an independent review of the record, we conclude that the order may be summarily affirmed because there are no issues with arguable merit for appeal. *See* WIS. STAT. RULE 809.21.

On April 18, 2017, Grant pled guilty, but not guilty by reason of mental disease or defect, to attempted first-degree intentional homicide, strangulation and suffocation, and false imprisonment—all charges with the repeater enhancer. The circuit court committed Grant to the Department of Health Services for sixty years. In December 2022, Grant petitioned for conditional release. The court appointed Matthew Seipel, a licensed psychologist, to examine Grant. The circuit court held an evidentiary hearing on Grant's petition during which Seipel and Grant's social worker testified. Seipel opined that Grant would not pose a significant risk of bodily harm to himself or others if conditionally released. Ultimately, the court denied the petition, finding that the State had met its burden of proving, by clear and convincing evidence, that Grant posed a significant risk of harm to himself and others. This no-merit appeal follows.

The no-merit report addresses whether the evidence was sufficient to support the circuit court's order denying Grant's petition for conditional release. Grant has filed a response, asserting there is arguable merit to challenge the sufficiency of the evidence. He argues that the circuit court put too much weight on his underlying offenses, which he emphasizes were committed years earlier, and the court did not give enough weight to Seipel's opinion that he no longer posed a significant risk of bodily harm to others.

Pursuant to WIS. STAT. § 971.17(4)(d), the court "shall grant the petition unless it finds by clear and convincing evidence that the person would pose a significant risk of bodily harm to himself or herself or to others or of serious property damage if conditionally released." A circuit

court determines dangerousness by considering the statutory factors in § 971.17(4)(d)<sup>2</sup> and “balancing of society’s interest in protection from harmful conduct against the acquittee’s interest in personal liberty and autonomy.” See *State v. Randall (Randall III)*, 2011 WI App 102, ¶15, 336 Wis. 2d 399, 802 N.W.2d 194 (citation omitted).

We review the circuit court’s conditional release determination under the “sufficiency of the evidence test” standard. *Id.*, ¶13. We will affirm the circuit court’s finding of continued dangerousness if credible evidence supports it. *Id.*, ¶17. We defer to the circuit court’s credibility determinations and its evaluation of the evidence, drawing on the circuit court’s reasoning. *Id.*, ¶14.

Here, in reaching its decision, the circuit court cited the proper legal standard and considered the statutory factors. The court found Grant had a significant mental health history and was concerned that “he has shown many times in his mental health and criminal history, he has not stayed on top of his treatment.” The court also expressed concern with the severity of the underlying offenses, calling them “violent and savage” and that, but for a neighbor calling police and the police’s timely arrival on scene, “we would have a homicide here.” Ultimately, the court concluded that despite Seipel’s opinion supporting conditional release, that opinion did not outweigh the other factors the court considered. The court explained:

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<sup>2</sup> WISCONSIN STAT. § 971.17(4)(d) provides, in relevant part, that the court may consider:

the nature and circumstances of the crime, the person’s mental history and present mental condition, where the person will live, how the person will support himself or herself, what arrangements are available to ensure that the person has access to and will take necessary medication, and what arrangements are possible for treatment beyond medication.

So while I am very impressed with his progress, the things he participates in at Mendota, how well he's been doing, this is a risk management question for this court and in weighing all of these factors – again, the severity of the offense, prior mental health history, prior criminal history, failure on supervision before, even recognizing how well he's been doing at Mendota since he arrived there a few years ago and recognizing that he, just two months ago, earned the right to start community outings; supervised community outings – weighing all of this I do not find that it's appropriate to grant conditional release at this time.

The court concluded that it found the “the State has met their burden by clear and convincing evidence that Mr. Grant continues to pose a significant risk of bodily harm to himself or others or serious property damage.” The court denied the petition.

Our review of the record establishes there is no arguable merit to challenge the weight or credit the circuit court afforded the witnesses' testimony or the court's finding that Grant remains a danger to himself or others. Although Seipel testified in support of the petition for conditional release, the court is not required to accept that conclusion. *See State v. Randall (Randall II)*, 222 Wis. 2d 53, 63 (1998). The record sufficiently supports the circuit court's determination. Accordingly, we agree with counsel's conclusion that there would be no arguable merit to challenge the court's decision to deny Grant's petition for conditional release.

Our independent review of the record does not disclose any potentially meritorious issue for appeal. Because we conclude that there would be no arguable merit to any issue that could be raised on appeal, we accept the no-merit report and relieve Attorneys Olivia Garman and Pamela Moorshead of further representation in this matter.

Upon the foregoing reasons,

IT IS ORDERED that the order of the circuit court is summarily affirmed. *See WIS. STAT. RULE 809.21.*

IT IS FURTHER ORDERED that Attorneys Olivia Garman and Pamela Moorshead are relieved of further representation of Jason L. Grant 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*