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DISTRICT II

April 17, 2024

To:

Hon. Brad Schimel
Circuit Court Judge
Electronic Notice

Monica Paz
Clerk of Circuit Court
Waukesha County Courthouse
Electronic Notice

Leonard D. Kachinsky
Electronic Notice

Jennifer L. Vandermeuse
Electronic Notice

Martin E. Hogan, #698558
Stanley Correctional Inst.
100 Corrections Dr.
Stanley, WI 54768

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

2022AP1398-CRNM State of Wisconsin v. Martin E. Hogan (L.C. #2020CF752)

Before Gundrum, P.J., Neubauer and Grogan, 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).

Martin E. Hogan appeals from a judgment convicting him of second-degree sexual assault of a child, two counts of invasion of privacy, possession of child pornography, two counts of first-degree sexual assault of a child (as party to a crime), and sexual gratification with an animal (also as party to a crime). His appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2021-22)¹ and *Anders v. California*, 386 U.S. 738 (1967). Hogan filed a

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

response. Counsel then filed a supplemental no-merit report in response to Hogan's filing. After reviewing the Record, counsel's reports, and Hogan's response, we conclude that there are no issues with arguable merit for appeal. Therefore, we summarily affirm the judgment. *See* WIS. STAT. RULE 809.21.

Hogan was convicted of six felony counts and one misdemeanor following a jury trial. He was accused of inciting and participating in sexual abuse and other crimes involving his then-girlfriend's children. For his actions, the circuit court imposed an aggregate sentence of twenty-five years of initial confinement and fifteen years of extended supervision. This no-merit appeal follows.

The no-merit report addresses whether the evidence at Hogan's jury trial was sufficient to support his convictions. When reviewing the sufficiency of the evidence, we may not substitute our judgment for that of the jury "unless the evidence, viewed most favorably to the state and the conviction, is so lacking in probative value and force that no trier of fact, acting reasonably, could have found guilt beyond a reasonable doubt." *State v. Poellinger*, 153 Wis. 2d 493, 507, 451 N.W.2d 752 (1990). Our review of the trial transcripts persuades us that the State produced ample evidence to convict Hogan of his crimes. That evidence included testimony from the children involved, from the children's mother, who engaged in some of the charged crimes with Hogan, and from members of law enforcement and forensic interviewers who investigated the events at issue in Hogan's trial. We agree with counsel that a challenge to the sufficiency of the evidence would lack arguable merit.

As noted, Hogan filed a response to the no-merit report. In it, he appears to accuse his trial counsel of (1) failing to timely provide Hogan all of the discovery items the State provided

to the defense; (2) failing to move to suppress evidence that was seized during Hogan’s initial arrest and the execution of a search warrant; and (3) failing to properly object to the racial composition of the jury. He also accuses the circuit court of being biased toward members of law enforcement. We are not persuaded that Hogan’s response presents an issue of arguable merit. As explained in the supplemental no-merit report, Hogan’s accusations against trial counsel are belied by the Record. Meanwhile, there is no Record support for Hogan’s conclusory assertion that the circuit court was biased toward law enforcement, nor that the alleged bias in any way tainted Hogan’s trial. In fact, appellate counsel flatly refutes it.

Our independent review of the Record—including search warrants, jury selection and composition, jury instructions, Hogan’s exercise of his right to testify, opening statements, closing arguments, and sentencing—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 Attorney Leonard D. Kachinsky of further representation in this matter.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Leonard D. Kachinsky is relieved from further representing Hogan in this appeal. *See* WIS. STAT. RULE 809.32(3).

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

Samuel A. Christensen
Clerk of Court of Appeals