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**DISTRICT III**

August 27, 2024

To:

Lamont K. Jacobson  
Circuit Court Judge  
Electronic Notice

Kelly Schremp  
Clerk of Circuit Court  
Marathon County Courthouse  
Electronic Notice

Erica L. Bauer  
Electronic Notice

Jennifer L. Vandermeuse  
Electronic Notice

Dennis C. Moua 535421  
Jackson Correctional Inst.  
P.O. Box 233  
Black River Falls, WI 54615-0233

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

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2023AP462-CRNM      State of Wisconsin v. Dennis C. Moua (L. C. No. 2021CF200)

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).**

Attorney Erica L. Bauer, as appointed counsel for Dennis C. Moua, has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2021-22),<sup>1</sup> and *Anders v. California*, 386 U.S. 738 (1967). Counsel provided Moua with a copy of the report, and both counsel and this court advised him of the right to file a response. Moua has not filed a response. After our independent review of the record and the no-merit report, we conclude that there is no arguable merit to any

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

issue that could be raised on appeal and that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21.

The State charged Moua with one count of sexual assault of a child under sixteen years of age and one count of child enticement, each as a party to a crime, as well as one count of possession of drug paraphernalia and three counts of felony bail jumping. Prior to trial, Moua entered no-contest pleas to one of the bail jumping counts and the count of possession of drug paraphernalia. The case proceeded to trial on the remaining four counts, and the jury returned guilty verdicts as to each count. The circuit court imposed concurrent sentences, with the controlling sentence being ten years of initial confinement followed by ten years of extended supervision on the sexual assault count. This no-merit appeal follows.

In the no-merit report, counsel discusses the charging documents, the probable cause review, the initial appearance, preliminary hearing, pretrial proceedings, jury selection, opening and closing arguments, the circuit court's rulings on evidentiary issues and objections, as well as the jury instructions. Counsel concludes that a challenge to any of these issues would be without arguable merit on appeal. Having conducted an independent review of the record, we agree with counsel's conclusion.

The no-merit report also addresses whether Moua's pleas were entered knowingly, voluntarily, and intelligently. The plea colloquy sufficiently complied with the requirements of *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906, and WIS. STAT. § 971.08 relating to the nature of the charges, the rights Moua was waiving, and other matters. There would be no arguable merit to a claim that the colloquy was defective.

Any challenge to the jury's verdicts would also lack arguable merit. When reviewing the sufficiency of the evidence, we must view the evidence in the light most favorable to sustaining the jury's verdicts. See *State v. Wilson*, 180 Wis. 2d 414, 424, 509 N.W.2d 128 (Ct. App. 1993). Without reciting the evidence in detail here, the evidence presented to the jury included testimony from the victim, two law enforcement officers, the Sexual Assault Nurse Examiner (SANE) who examined the victim, a scientist from the Wisconsin State Crime Laboratory, who conducted DNA testing on biological samples obtained from the victim (during the SANE examination) and from Moua. The evidence presented at trial was not inherently incredible and, if believed by the jury, was sufficient to satisfy the elements of each count. There would be no arguable merit to challenging the sufficiency of the evidence to support the jury's verdicts. Additionally, we are satisfied that there is nothing in the no-merit report or the record that would give rise to an arguably meritorious claim for ineffective assistance of trial counsel.

The no-merit report also addresses Moua's sentences. As discussed in the no-merit report, the sentences are within the legal maximum. As to discretionary decisions, the standards for the circuit court and this court are well established and need not be repeated here. See *State v. Gallion*, 2004 WI 42, ¶¶17-51, 270 Wis. 2d 535, 678 N.W.2d 197. In this case, the circuit court considered appropriate factors, did not consider improper factors, and reached a reasonable result within the applicable penalty ranges. Moua received 233 days of sentence credit for the time he was held prior to sentencing in connection with the charges in this case. Upon our independent review of the record, we conclude that there would be no arguable merit to challenging Moua's sentences on appeal.

Our review of the record discloses no other potential issues for appeal.

Therefore,

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

IT IS FURTHER ORDERED that Attorney Erica L. Bauer is relieved of further representation of Dennis C. Moua 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*