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WISCONSIN COURT OF APPEALS

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

Telephone (608) 266-1880
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT IV

January 29, 2015

To:

Hon. Guy D. Dutcher
Circuit Court Judge
Waushara County Courthouse
209 S. Saint Marie St.
Wautoma, WI 54982

Patricia Cal Baker
Clerk of Circuit Court
Portage Co. Courthouse
1516 Church Street
Stevens Point, WI 54481-3598

Russell D. Bohach
The Gettelman Mansion
2929 W. Highland Blvd.
Milwaukee, WI 53208

Kevin C. Greene
Brown Co. District Attorney's Office
P. O. Box 23600
Green Bay, WI 54305-3600

David R. Knaapen
Asst. District Attorney
1516 Church St.
Stevens Point, WI 54481-3598

Gregory M. Weber
Assistant Attorney General
P.O. Box 7857
Madison, WI 53707-7857

Dennis E. Helminski
Sand Ridge Secure Treatment Center
P.O. Box 800
Mauston, WI 53948

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

2013AP977-NM

In re the commitment of Dennis E. Helminski: State of Wisconsin
v. Dennis E. Helminski (L.C. #2008CI1)

Before Blanchard, P.J., Higginbotham and Kloppenburg, JJ.

Dennis Helminski appeals an order committing him to the care and custody of the Department of Health and Family Services following his adjudication as a sexually violent person pursuant to Chapter 980 of the Wisconsin Statutes. Attorney Russell Bohach has filed a

no-merit report seeking to withdraw as appellate counsel. WIS. STAT. RULE 809.32 (2011-12);¹ *see also Anders v. California*, 386 U.S. 738, 744 (1967); *State ex rel. McCoy v. Wisconsin Court of Appeals*, 137 Wis. 2d 90, 97, 403 N.W.2d 449 (1987), *aff'd*, 486 U.S. 429 (1988). The no-merit report addresses the sufficiency of the evidence to support the verdict. Helminski was sent a copy of the report, but has not filed a response. Upon reviewing the entire record, as well as the no-merit report, we conclude that there are no arguably meritorious appellate issues, and therefore affirm the commitment order.

To establish that Helminski was a proper subject for commitment under Chapter 980, the State needed to prove beyond a reasonable doubt that Helminski had a prior conviction for a sexually violent offense; that he had a mental disorder which predisposed him to commit sexually violent offenses; and that he was more likely than not to reoffend. *See* WIS. STAT. §§ 980.01(7), 980.05(3); WIS JI—CRIMINAL 2502. The State produced both testimony and a prior judgment of conviction to establish that Helminski previously had been convicted of sexual assault of a child. The State presented expert testimony from licensed psychologist Dr. Sheila Fields that Helminski suffered from the mental disorders of pedophilia and antisocial personality disorder, which predisposed him to commit sexually violent offenses. Fields also concluded that Helminski was more likely than not to reoffend because his scores on actuarial instruments placed him in a high risk group for recidivism, and that risk was further increased by his elevated score on the psychopathy scale. Dr. Cynthia Marsh similarly testified that Helminski met the criteria for commitment.

¹ All further references in this order to the Wisconsin Statutes are to the 2011-12 version, unless otherwise noted.

In sum, the testimony of the State's two expert witnesses was sufficient to support the verdict, and the court's disposition committing Helminski to the custody of the Department of Health and Family Services was properly based upon the verdict that he was a sexually violent person. WIS. STAT. § 980.06. Upon our independent review of the record, we have found no other arguable basis for reversing the commitment order. *See State v. Allen*, 2010 WI 89, ¶¶81-82, 328 Wis. 2d 1, 786 N.W.2d 124. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

Therefore,

IT IS ORDERED that the commitment order is summarily affirmed under WIS. STAT. RULE 809.21(1).

IT IS FURTHER ORDERED that Attorney Russell Bohach is relieved of any further representation of Dennis Helminski in this matter. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals