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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 IV**

February 2, 2015

To:

Hon. Kenneth W. Forbeck  
Circuit Court Judge  
51 S. Main Street  
Janesville, WI 53545

Esther Cohen Lee  
Hall, Burce and Olson, S.C.  
759 N. Milwaukee Street, Ste. 410  
Milwaukee, WI 53202

Jacki Gackstatter  
Clerk of Circuit Court  
Rock Co. Courthouse  
51 S. Main Street  
Janesville, WI 53545

Katherine Desmond Lloyd  
Assistant Attorney General  
P.O. Box 7857  
Madison, WI 53707-7857

Perry L. Folts  
Deputy Dist. Atty.  
51 S. Main Street  
Janesville, WI 53545

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

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2013AP2878-CR

State of Wisconsin v. James G. Rees (L.C. # 2010CF1720)

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

James Rees appeals a judgment convicting him of causing mental harm to a child and an order denying his postconviction motion for resentencing. After reviewing the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2011-12).<sup>1</sup> We affirm.

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

Rees was initially charged with repeated sexual assault of a child based upon allegations that he molested his deaf daughter over a period of years. The State subsequently agreed to reduce the charge to causing mental harm to a child and to conform its sentencing recommendation to that of the Department of Corrections in exchange for a plea. The circuit court ultimately exceeded the recommendation from the State and the Department of Corrections, and sentenced Rees to seven years of initial incarceration and five years of extended supervision, which was six months below the maximum available term of imprisonment for a Class F felony. *See* WIS. STAT. § 939.50(3)(f). The court also ordered Rees to register as a sex offender for life, and to pay a restitution award that included a claim for the amount of family medical sick leave time the child's mother needed to take in order to care for her daughter, who became suicidal.

Rees raises two issues on appeal. Neither of them has merit.

First, Rees contends that the family medical leave time the mother used does not fall within the scope of special damages that are compensable in restitution orders under WIS. STAT. § 973.20(5)(a). This court squarely rejected a similar argument about sick leave in *State v. Loutsch*, 2003 WI App 16, ¶2, 259 Wis. 2d 901, 656 N.W.2d 781 (WI App 2002), *overruled on other grounds by State v. Fernandez*, 2009 WI 29, 316 Wis. 2d 598, 764 N.W.2d 509.

Second, Rees contends that the circuit court erroneously exercised its sentencing discretion both in imposing a sentence near the maximum and in requiring him to register as a sex offender for life when it disregarded a COMPAS score that categorized Rees as having a low risk of reoffending. The record shows that the court properly exercised its discretion in weighing the relevant factors and the evidence.

The record shows that the court viewed the severity of the offense as aggravated because of the relationship between Rees and the victim, the victim's young age when the molestation began, the planning and manipulation Rees used to target his most vulnerable child and assault her when the mother was at work, the length of time Rees had been engaged in similar conduct, and the repulsive nature of the acts themselves. The court emphasized the depth of the impact of the offense on the victim, stating that Rees had subjected his daughter to a lifetime of feeling that she is worthless and did something bad.

As to character, the court viewed Rees as having a dual personality—the respectful front he presented to the world and his hidden life where he was a sexual predator, as well as manipulative, nasty, and belittling to his family.

Regarding the likelihood that Rees would reoffend, the court stated its opinion that the scientific research attempting to accurately predict future sexual offenses was “sketchy at best” and still in flux. The court observed that Rees had engaged in inappropriate patterns of behavior with others in the past and did not show any remorse or take responsibility for his actions. The court further noted that Rees' statements about the offense and his continued attempts to have contact with the victim demonstrated that he had not learned anything, and therefore presented a continuing risk to the public.

The court's discussion of the standard sentencing factors more than adequately explained its conclusion that the primary sentencing objectives in this case were punishment and protection of the public, rather than deterrence or rehabilitation, and leaves little doubt as to why it imposed near the maximum sentence. The court's discussion of the severity of the offense and Rees' history of inappropriate behavior and continuing danger to the public also supports its

determination that the public would be served by having Rees remain on the sex offender registry for life.

IT IS ORDERED that the judgment of conviction and order denying the appellant's postconviction motion for resentencing are summarily affirmed under WIS. STAT. RULE 809.21(1).

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*Diane M. Fremgen*  
*Clerk of Court of Appeals*