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February 20, 2017

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

2016AP976-CRNM State of Wisconsin v. Cory Darvon Brown (L.C. # 2013CF1897)

Before Brennan, P.J., Kessler and Brash, JJ.

A jury found Cory Darvon Brown guilty of one count of repeated sexual assault of the same child and one count of incest with a child. The circuit court imposed two concurrent forty-year terms of imprisonment, each bifurcated as twenty-five years of initial confinement and fifteen years of extended supervision. Brown moved for postconviction relief on multiple grounds. The circuit court ordered the judgment of conviction amended to correct a clerical error and otherwise denied his claims. Brown appeals.

Brown's appointed postconviction and appellate counsel, Attorney Amy C. Scholz, filed a no-merit report pursuant to ***Anders v. California***, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32 (2015-16).[1] Brown did not respond. This court has considered the no-merit report and independently reviewed the record. We conclude that no arguably meritorious issues exist for an appeal, and we summarily affirm.[2] *See* WIS. STAT. RULE 809.21(2015-16).

The State charged Brown in April 2013 with one count of repeated first-degree sexual assault of a child, A.B., in violation of WIS. STAT. § 948.025(1)(d), a Class B felony carrying a sixty-year term of imprisonment pursuant to WIS. STAT. § 939.50(3)(b). The State alleged that A.B., born November 17, 2002, is Brown's biological daughter and that, between February 2006 and April 18, 2013, he had sexual contact with her on at least three occasions. Brown denied the charge against him and demanded a jury trial.

At the final pretrial conference, the State filed a two-count information. In count one, the State alleged that Brown had committed repeated sexual assault of a child in violation of WIS. STAT. § 948.025(1)(a), which the amended information characterized as a Class B felony. In count two, the State charged Brown with incest, a Class C felony carrying a forty-year term of imprisonment and a $100,000 fine. *See* WIS. STAT. §§ 948.06(1), 939.50(3)(c).

[1] Because some minor changes in statutory language took effect after Brown's trial ended in 2013, all subsequent references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

[2] The instant no-merit proceeding is the second no-merit appeal arising out of Brown's convictions in this matter. After filing an earlier no-merit report, Attorney Scholz considered an inquiry from this court and concluded that the case warranted further postconviction proceedings. We granted her requests for voluntary dismissal and an extension of Brown's appellate deadlines. *See* ***State v. Brown***, No. 2014AP2659-CRNM, unpublished op. and order (WI App July 29, 2015).

The matter proceeded to trial in August 2013. The jury found Brown guilty of both counts against him.

We first consider a claim Brown raised in postconviction proceedings, namely, whether he is entitled to relief because the State failed to prove that he committed repeated sexual assault of a child in violation of WIS. STAT. § 948.025(1)(a), as alleged in the amended information. We conclude that further pursuit of this claim would lack arguable merit.

A violation of WIS. STAT. § 948.025(1)(a) is a Class A felony carrying a life sentence under WIS. STAT. § 939.50(3)(a). A person violates § 948.025(1)(a) by committing three or more sexual assaults of the same child, if at least three of the assaults violate WIS. STAT. § 948.02(1)(am). *See* § 948.025(1)(a). A sexual assault violates § 948.02(1)(am), if the assault causes great bodily harm to a child under the age of thirteen years. *See* ***id.*** Brown argued in his postconviction motion that the State failed to prove at trial that any of the sexual assaults caused great bodily harm to A.B., and therefore the State failed to prove him guilty of violating § 948.025(1)(a), the crime alleged in the amended information.

In response to the motion, the circuit court reviewed the complaint and the original information, in which the State charged Brown with repeated sexual assault of a child in violation of WIS. STAT. § 948.025(1)(d), not § 948.025(1)(a). A person violates § 948.025(1)(d) by committing three or more sexual assaults of the same child, if at least three of the assaults violate any of the provisions of WIS. STAT. § 948.02(1), which prohibits sexual assault of a child under a variety of circumstances described in § 948.02(1)(am)-(e). The circuit court noted that a violation of § 948.025(1)(d) is a Class B felony and that all of the charging documents in this case, including the amended information, expressly describe the charge of repeated sexual

assault of a child as a Class B felony. Further, the circuit court determined that the criminal complaint advised Brown he was charged with sexual assaults that did not result in great bodily harm to A.B.

The circuit court next observed that among the jury instructions was one directing that Brown could be found guilty of repeated sexual assault of a child only if the jury found he committed three or more sexual assaults, each of which was in violation of WIS. STAT. § 948.02(1)(e). Further, the court explained, it instructed the jury that to violate § 948.02(1)(e), a person must have sexual contact with a person younger than thirteen years old.

Based on the foregoing, the circuit court found that the State charged Brown with repeated sexual assault of a child in violation of WIS. STAT. § 948.025(1)(d), Brown had notice of the crime charged, and the jury ultimately found Brown guilty of that crime. The circuit court further found that the citation to § 948.025(1)(a) in the amended information was a scrivener's error. Charging documents in criminal cases are not invalidated due to errors that do not prejudice the defendant. *See* WIS. STAT. § 971.26. The circuit court concluded that, in light of its findings, Brown was not prejudiced by the imperfection in the amended information.

The circuit court recognized that the judgment of conviction echoed the error in the amended information, erroneously reflecting that Brown was convicted under WIS. STAT. § 948.025(1)(a). The circuit court therefore ordered entry of an amended judgment of conviction showing that Brown stands convicted of repeated sexual assault of a child in violation of § 948.025(1)(d). *See* ***State v. Prihoda***, 2000 WI 123, ¶17, 239 Wis. 2d 244, 618 N.W.2d 857 (court may correct clerical error at any time). Entry of the amended judgment of conviction

provides Brown with complete relief from the scrivener's error in this case.[3] Further pursuit of this issue would be frivolous within the meaning of ***Anders***.

We next consider whether the State presented sufficient evidence to convict Brown. The question is governed by a highly deferential standard. *See* ***State v. Kimbrough***, 2001 WI App 138, ¶12, 246 Wis. 2d 648, 630 N.W.2d 752. We "may not reverse a conviction unless the evidence, viewed most favorably to the [S]tate and the conviction, is so insufficient 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, 501, 451 N.W.2d 752 (1990). The credibility of the witnesses and the weight of the evidence are determinations that rest with the factfinder. *See* ***id.*** at 504.

The circuit court instructed the jury that before it could find Brown guilty of repeated acts of sexual assault of a child, the State must prove beyond a reasonable doubt that Brown sexually assaulted A.B. at least three times within the period from February 2006 through April 18, 2013, that she had not reached the age of thirteen years at the time of the assaults, and that the assaults involved sexual contact. *See* WIS. STAT. §§ 948.025(1)(d); 948.02(1)(e); *see also* WIS JI—CRIMINAL 2107. Before the jury could find Brown guilty of incest with a child, the State was required to prove that Brown had sexual contact with A.B., that Brown knew A.B. was related to him by blood or adoption and to a degree of kinship closer than a second cousin, and that A.B.

[3] Although the circuit court ordered entry of an amended judgment of conviction, the record that reached this court does not include an amended judgment. Upon remittitur, we direct the circuit court to oversee entry of an amended judgment of conviction that conforms to the court's postconviction order.

had not reached the age of eighteen years at the time of the alleged offense. *See* WIS. STAT. §§ 948.06(1); 948.01(1); *see also* WIS JI—CRIMINAL 2130.

To prove the charges, the State presented the testimony of A.B. She said she was ten years old, and she identified Brown as her father. Using childish euphemisms for various body parts, she described more than three occasions on which Brown had sexual contact with her during the period from February 2006 through April 18, 2013. One of A.B.'s teachers testified that on April 12, 2013, A.B. revealed she had seen her father's "privates." The teacher said she reported the remark because it was a possible indication of sexual abuse. A.B.'s friend, A.M., testified that A.B. had confided that her father subjected her to sexually inappropriate conduct. A police officer, Angela Phillips, testified that, on April 18, 2013, she conducted a recorded interview with A.B. Phillips described A.B.'s allegations, and the State played a portion of the interview to refresh the officer's recollection. A pediatrician testified that she examined A.B. on April 22, 2013, and to a reasonable degree of medical certainty the results of the examination were consistent with child sexual abuse.

A.B.'s mother, T.H., testified about how "all this court stuff got started." She said she received a telephone call from A.B.'s teacher on April 18, 2013, relaying A.B.'s comment about her father's "privates." T.H. confronted A.B., who cried and then said Brown had touched her and put his penis in her mouth. T.H. went on to describe telephone calls she received from Brown after A.B. disclosed the sexual assaults. The jury heard portions of the recorded calls, which included Brown's statements that A.B. "initiated ... every time," "the devil" caused his actions, he was "all the way in the wrong," and that he would be "in here" for the rest of his life.

In light of our deferential standard of review, an appellate challenge to the sufficiency of the evidence would lack arguable merit. Further pursuit of this issue would be frivolous within the meaning of ***Anders***.

We next consider whether Brown could mount a meritorious claim that the jury wrongly was exposed to the portion of his recorded telephone call reflecting an expectation that he would remain incarcerated for the rest of his life. *See* ***State v. Shoffner***, 31 Wis. 2d 412, 428, 143 N.W.2d 458 (1966) (jury normally not to be informed of effect of its decision on the rights or liabilities of the parties). The circuit court concluded that Brown's statement reflected consciousness of guilt rather than an expectation of a particular punishment. Regardless, the circuit court instructed the jury that the consequences of its verdicts were for the court alone to consider and must not affect the jury's deliberations. We presume that a jury follows the instructions given. ***State v. Grande***, 169 Wis. 2d 422, 436, 485 N.W.2d 282 (Ct. App. 1992). Further pursuit of this issue would lack arguable merit.

We next consider whether Brown could mount an arguably meritorious challenge to his waiver of the right to testify at trial. The record reveals that the circuit court conducted a colloquy with Brown and established that he understood his right to testify on his own behalf, he had discussed that right with his trial counsel, and he knowingly and voluntarily chose not to testify. The colloquy satisfied the requirements for a valid waiver described in ***State v. Weed***, 2003 WI 85, ¶43, 263 Wis. 2d 434, 666 N.W.2d 485. Further appellate proceedings to pursue this issue would lack arguable merit.

We next consider whether Brown could pursue an arguably meritorious claim that his trial counsel was ineffective. We assess claims of ineffective assistance of counsel under the

two-prong test described in ***Strickland v. Washington***, 466 U.S. 668, 687 (1984). To prevail, the defendant must show that trial counsel's performance was deficient and that the deficiency prejudiced the defense. ***Id.*** To prove deficiency, the defendant must show that trial counsel's actions or omissions were "professionally unreasonable." *See* ***id.*** at 691. To prove prejudice, the defendant must show that trial counsel's errors had an actual, adverse effect on the defense. *See* ***id.*** at 693. Whether counsel's performance was deficient and whether the deficiency was prejudicial are questions of law that we review *de novo*. ***State v. Johnson***, 153 Wis. 2d 121, 128, 449 N.W.2d 845 (1990). If a defendant fails to satisfy one component of the analysis, a reviewing court need not address the other. ***Strickland***, 466 U.S. at 697.

In postconviction proceedings, Brown alleged that his trial counsel was ineffective for failing to retain an investigator to interview A.B. Nothing in the postconviction motion, however, demonstrated that an investigator would have obtained information from A.B. that might have aided the defense. *See* ***State v. Leighton***, 2000 WI App 156, ¶38, 237 Wis. 2d 709, 616 N.W.2d 126 (defendant who alleges failure to investigate on the part of counsel must specifically allege what the investigation would have revealed and how it would have altered the outcome of the trial). Further pursuit of this issue would lack arguable merit.

Brown also raised a postconviction claim that his trial counsel was ineffective for failing to arrange to have him examined by a mental health professional. He asserted that his history of attention deficit hyperactivity disorder suggested both a possible defense to the charges and a basis to claim he did not know what he was saying during his recorded telephone conversations with T.H. In effect, Brown contended that a mental health examination would have either: (1) supported a defense of not guilty by reason of mental disease or defect; or (2) demonstrated that he was incompetent to proceed.

A defendant may avoid criminal responsibility for an unlawful act if the defendant can show that, "as a result of mental disease or defect the person lacked substantial capacity [at the time of the act] either to appreciate the wrongfulness of his or her conduct or conform his or her conduct to the requirements of law." *See* WIS. STAT. § 971.15(1). As to incompetency, "a defendant is incompetent if he or she lacks the capacity to understand the nature and object of the proceedings, to consult with counsel, and to assist in the preparation of his or her defense." ***State v. Byrge***, 2000 WI 101, ¶27, 237 Wis. 2d 197, 614 N.W.2d 477. Nothing in the record suggests a reason to believe that Brown was not criminally responsible for his conduct or that he lacked competency. He was lucid and responsive in the courtroom, and he does not describe anything that he said or did outside the courtroom to alert his trial counsel that he had mental health problems that might prove legally significant. The presentence investigation report reflects that Brown had a history of employment, had never been formally diagnosed with any sort of psychosis, and that, at the time of his arrest in April 2013, he was enrolled at Milwaukee Area Technical College pursuing an associate's degree. Accordingly, no basis exists to conclude that trial counsel was ineffective for failing to seek a mental health examination of Brown. *See* ***Leighton***, 237 Wis. 2d 709, ¶38. Further pursuit of this issue would lack arguable merit.

Brown also alleged in postconviction proceedings that his trial counsel was ineffective for failing to raise a hearsay objection to the trial testimony of A.M. This ten-year-old witness described a conversation with A.B. during which A.B. confided that her father was sexually inappropriate with her. A.M. described A.B. during the conversation as "sad, with watery eyes."

The circuit court ruled that trial counsel did not perform deficiently by forgoing an objection to A.M.'s testimony because the hearsay was admissible as an excited utterance pursuant to WIS. STAT. § 908.03(2). The decision to admit or exclude evidence in the face of a

hearsay objection rests in the circuit court's reasoned discretion. *See* ***State v. Huntington***, 216 Wis. 2d 671, 680, 575 N.W.2d 268 (1998). We uphold the decision if it is based on an examination of the facts and the circuit court applies the proper legal standards. *See* ***id.*** at 680-81. An out-of-court statement may properly be admitted as an excited utterance if the declarant's statement related to a startling event or condition and the declarant made the statement while "'under the stress of excitement caused by the event or condition.'" *See* ***id.*** at 682 (citation omitted). The record here supports the circuit court's conclusion that the disputed evidence was admissible as an excited utterance. The testimony reflected that A.B. made her disclosure to A.M. during the time period in which A.B. was enduring Brown's sexual assaults, and A.B. was emotional when she confided in A.M. Accordingly, Brown suffered no prejudice when his trial counsel did not make a hearsay objection to A.M.'s testimony. *See* ***State v. Jackson***, 229 Wis. 2d 328, 344, 600 N.W.2d 39 (Ct. App. 1999) (burden is on defendant to show that a challenge counsel did not make would have succeeded). Further pursuit of this issue would lack arguable merit.

We have independently considered whether trial counsel was ineffective for failing to object because the State presented a portion of A.B.'s recorded statement after, instead of before, A.B. completed her in-court testimony. WISCONSIN STAT. § 908.08 permits the circuit court to admit into evidence the audiovisual recording of a child's oral statement. Pursuant to ***State v. James***, 2005 WI App 188, 285 Wis. 2d 783, 703 N.W.2d 727, however, the statement must be presented before all in-court testimony. *See* ***id.***, ¶¶4, 12, 20, 23; *see also* 7 DANIEL D. BLINKA, WISCONSIN PRACTICE SERIES: WISCONSIN EVIDENCE § 808.1 (3d ed. 2008) (procedural sequence described in § 908.08 is nondiscretionary). In this case, the State presented A.B. as a witness

early in the prosecution's case-in-chief, but later played a portion of A.B.'s recorded statement as a tool to refresh Phillips's recollection.

We are satisfied that trial counsel's failure to object to the order of presentation does not provide grounds for relief. The jury heard only an eighty-four-second excerpt of A.B.'s recorded statement, and that portion of the statement did not relate to an act of sexual assault but rather to an occasion when A.B. shared a bed with her parents. Although trial counsel arguably performed deficiently by failing to object to the out-of-sequence presentation of the recorded excerpt, Brown suffered no prejudice. The other evidence in the case was overwhelming, and the significance of the eighty-four seconds of tape was *de minimis* at best. Exclusion of the excerpt would not have altered the outcome of the trial. *See* ***Strickland***, 466 U.S. at 693. Further pursuit of this issue would lack arguable merit.

We next consider whether Brown could pursue an arguably meritorious claim that his trial counsel was ineffective for failing to insist on a pretrial hearing at which the circuit court would review A.B.'s recorded statement and determine its admissibility. We conclude he could not. The State gave timely pretrial notice of intent to use the recording, as required by WIS. STAT. § 908.08(2), and Brown and his trial counsel confirmed at the outset of the trial that they had viewed the recording and had no objection to its admission. Although the circuit court itself did not, as required, view the recording and make findings in regard to its admissibility before trial, *see* § 908.08(2)(b)-(3), the circuit court did conduct an admissibility inquiry mid-trial and concluded that A.B.'s statement satisfied the conditions for admissibility set forth in WIS. STAT. § 908.08(3). Specifically, the circuit court found that: (1) the trial had commenced before A.B.'s twelfth birthday; (2) the recording was accurate; (3) A.B. made the statement after demonstrating her understanding of the difference between the truth and a lie; (4) the time,

content, and circumstances of the statement provided indicia of its trustworthiness; and (5) Brown was not surprised by the statement. *See* ***id.*** In light of those findings, Brown cannot show prejudice from the lack of a pretrial admissibility hearing: no reasonable probability exists that such a hearing would have altered the outcome of the proceedings. *See* ***Strickland***, 466 U.S. at 693. Further pursuit of this issue would lack arguable merit.

We have also considered whether Brown could raise an arguably meritorious claim that trial counsel was ineffective for failing to object when Phillips testified about the content of A.B.'s recorded statement. We conclude that Phillips's testimony describing A.B.'s statement was admissible under the residual hearsay exception. *See* WIS. STAT. § 908.03(24). The provision is "designed as a catch-all exception that allows hearsay statements that may not comport with established exceptions, but which still demonstrate sufficient indicia of reliability to be admitted." ***Huntington***, 216 Wis. 2d at 687. Statements by children to law enforcement officers may be admissible under this exception. *See* ***id.*** at 688-89. Here, the circuit court considered the reliability of A.B.'s statement to Phillips in the context of determining the admissibility of the video recording of that statement. The circuit court found that the time, content, and circumstances of A.B.'s statement provided sufficient indicia of its trustworthiness as to warrant admission. The record supports that conclusion. A.B. made her statement to Phillips immediately after disclosing the assaults to her mother and during the period that they were occurring; A.B. was upset when she made her disclosures; and Phillips was a highly trained officer, who testified that at the time she took the statement, she had twenty years of experience in law enforcement, including nine years of investigating sensitive crimes. *See* ***id.*** at 687-88 (describing the factors relevant to admissibility under WIS. STAT. § 908.03(24)). Accordingly, Brown had no arguably meritorious basis for a hearsay objection to Phillips's testimony.

We have also reviewed a letter Brown wrote to the circuit court at the conclusion of the postconviction proceedings. Brown alleged in the letter that the prosecutor "pressured" T.H. and A.B. to testify at trial and this pressure, he suggested, constituted an error of some kind that entitles him to relief. Brown further alleged he did not know that the prosecutor would pressure T.H. and A.B. to testify, and, had he known that the witnesses could be compelled to testify, he would have accepted a plea bargain "to spare [his] family from humiliation." We conclude that these contentions do not provide an arguably meritorious basis for further proceedings.

First, as to Brown's position that the prosecutor erred by urging T.H. and A.B. to testify, persons obliged to appear at trial must attend the proceeding, and the State does nothing wrong by so advising its witnesses. *See* WIS. STAT. § 885.11;[4] *see also* ***State v. Gilbert***, 109 Wis. 2d 501, 513, 326 N.W.2d 744 (1982) (strong public policy exists favoring compelling testimony).

Second, when Brown suggested he would have pled guilty had his trial counsel told him that the State could compel the attendance of witnesses against him, he claimed, in effect, that he received ineffective assistance of counsel during plea bargaining. A defendant has a right to effective assistance of counsel during the plea bargaining process. ***State v. LeMere***, 2016 WI 41, ¶24, 368 Wis. 2d 624, 879 N.W.2d 580. Assuming for the sake of argument that Brown could successfully allege his trial counsel performed deficiently during the plea bargaining process by failing to give him necessary information about the State's subpoena power, the record shows Brown suffered no prejudice from the alleged deficiency.

[4] WISCONSIN STAT. CH. 885 applies in criminal matters. *See* WIS. STAT. § 972.11.

On the first day of trial, before *voir dire* began, the prosecutor stated on the record that the State had offered Brown a plea bargain to spare A.B. the pain of testifying, and the prosecutor described the terms of the offer. Brown told the circuit court that he wanted to reject the offer and proceed to trial. The circuit court cautioned Brown that, after the jury was sworn, he could not change his mind. Brown assured the circuit court that he understood. Subsequently—while *voir dire* was under way and before the jury was chosen and sworn—the prosecutor advised Brown and the circuit court that A.B. and T.H. were present in the courthouse. Brown did not respond, personally or through counsel, that he wanted to accept a plea bargain, and he did not object, personally or through counsel, to continuing with jury selection. Accordingly, Brown cannot demonstrate any prejudice flowing from his trial counsel's alleged deficiency in failing to make clear earlier in the plea bargaining process that A.B. and T.H. could be compelled to appear for trial. Knowledge that they had in fact appeared did not affect Brown's decision to reject a plea bargain. *See* ***Strickland***, 466 U.S. at 693.

We last consider whether Brown could pursue an arguably meritorious challenge to his sentences. Sentencing lies within the circuit court's discretion, and our review is limited to determining if the circuit court erroneously exercised its discretion. ***State v. Gallion***, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197. "When the exercise of discretion has been demonstrated, we follow a consistent and strong policy against interference with the discretion of the [circuit] court in passing sentence." ***State v. Stenzel***, 2004 WI App 181, ¶7, 276 Wis. 2d 224, 688 N.W.2d 20.

The circuit court must "specify the objectives of the sentence on the record. These objectives include, but are not limited to, the protection of the community, punishment of the defendant, rehabilitation of the defendant, and deterrence to others." ***Gallion***, 270 Wis. 2d 535,

¶40. In seeking to fulfill the sentencing objectives, the circuit court must consider the primary sentencing factors of "the gravity of the offense, the character of the defendant, and the need to protect the public." ***State v. Ziegler***, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. The circuit court may also consider a wide range of other factors concerning the defendant, the offense, and the community. *See* ***id.*** The circuit court has discretion to determine the factors that are relevant in fashioning the sentence and the weight to assign to each relevant factor. ***Stenzel***, 276 Wis. 2d 224, ¶16.

The record here reflects an appropriate exercise of sentencing discretion. The circuit court indicated that protection of the public was the primary sentencing goal, and the circuit court discussed the factors that it deemed relevant to that goal. The circuit court emphasized that repeated sexual assault of a young child is a grave offense, particularly when the assaults continue over many years. The circuit court considered Brown's character, observing that Brown failed to take responsibility for the crimes and noting with particular concern that he implied during his recorded telephone calls that A.B. provoked the assaults. The circuit court also took into account Brown's criminal history, acknowledging that his record did not include serious assaultive offenses but noting that it did include multiple convictions and juvenile adjudications. *Cf.* ***State v. Fisher***, 2005 WI App 175, ¶26, 285 Wis. 2d 433, 702 N.W.2d 56 (substantial criminal record is evidence of character). The circuit court considered the need to protect the public, concluding that Brown's failure to take responsibility for the assaults put him at risk to reoffend and endangered the community.

The record shows that the circuit court identified the various factors it considered in selecting sentences for Brown. The factors were appropriate and relevant. Moreover, the sentences imposed were not unduly harsh. A sentence is unduly harsh "'only where the sentence

is so excessive and unusual and so disproportionate to the offense committed as to shock public sentiment and violate the judgment of reasonable people concerning what is right and proper under the circumstances.'" *See* ***State v. Grindemann***, 2002 WI App 106, ¶31, 255 Wis. 2d 632, 648 N.W.2d 507 (citation omitted). The offenses in this case involved sexual abuse of Brown's young child. "In our society, sexual abuse of a child ranks among the most heinous crimes a person can commit." ***Johnson v. Rogers Memorial Hosp., Inc.***, 2005 WI 114, ¶80, 283 Wis. 2d 384, 700 N.W.2d 27 (Prosser, J., concurring). Given the nature of Brown's crimes, we cannot say that the circuit court's sentencing decisions shock the public sentiment or violate the judgment of reasonable people concerning what is right and proper. A challenge to the sentences would lack arguable merit.

Based on an independent review of the record, we conclude there are no additional potential issues warranting discussion. Any further proceedings beyond correction of the scrivener's error in the judgment of conviction would be without arguable merit within the meaning of ***Anders*** and WIS. STAT. RULE 809.32 (2015-16).

IT IS ORDERED that, upon remittitur, the circuit court shall oversee entry of the amended judgment of conviction required by the circuit court's postconviction order and by footnote three of this opinion.

IT IS FURTHER ORDERED that the judgment of conviction and postconviction order are summarily affirmed upon entry of the amended judgment of conviction. *See* WIS. STAT. RULE 809.21 (2015-16).

IT IS FURTHER ORDERED that Attorney Amy C. Scholz is relieved of any further representation of Cory Darvon Brown, effective on the date that an amended judgment of conviction is entered as required by the circuit court's postconviction order and by footnote three of this opinion. *See* WIS. STAT. RULE 809.32(3) (2015-16).

Diane M. Fremgen
Clerk of Court of Appeals