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**DISTRICT III**

May 7, 2019

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

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2017AP2174-CRNM      State of Wisconsin v. Jonas Peter Ellwart, Sr.  
2017AP2175-CRNM      (L. C. Nos. 2015CF1192, 2016CF200)

Before Stark, P.J., Hruz and Seidl, 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).**

Counsel for Jonas Ellwart, Sr., has filed a no-merit report concluding there is no basis to challenge Ellwart's convictions for second-degree sexual assault of a child and felony bail jumping. Ellwart was advised of his right to respond and has failed to respond. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we

conclude there is no merit to any issue that could be raised on appeal, and we summarily affirm. *See* WIS. STAT. RULE 809.21 (2017-18).<sup>1</sup>

A criminal complaint alleged that Ellwart touched his eleven-year-old granddaughter's breasts and nipples with his hand underneath her clothing. Ellwart was charged with first-degree sexual assault—sexual contact with a child under age thirteen. A repeater enhancer was charged because Ellwart had been previously convicted of three misdemeanors during the five-year period immediately preceding the offense. A subsequently filed second complaint charged Ellwart with felony bail jumping, alleging Ellwart violated the absolute sobriety condition of his bond in the sexual assault case by consuming alcohol on his release.

Ellwart pleaded no contest to an amended count of second-degree sexual assault of a child less than sixteen years of age, and guilty to a single count of felony bail jumping. The repeater enhancers on both charges were dismissed. In addition, felony bail jumping charges in four additional cases were dismissed and read in. After the circuit court accepted Ellwart's pleas and found him guilty, Ellwart wrote a letter to the court "because I would like to tell you my side of what happened on the evening in which I'm being accused of this terrible act." The letter implied a desire to withdraw his pleas and to seek a new lawyer. At the commencement of the sentencing hearing, however, Ellwart confirmed his desire to proceed to sentencing without pursuing a motion to withdraw his pleas and without seeking a new attorney. Ellwart explained, "I just wanted you to have—for me to have an opportunity to give you my side of the story as to what happened there." The court imposed concurrent sentences consisting of eight years' initial

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2017-18 version unless otherwise noted.

confinement and twelve years' extended supervision on the sexual assault count; and one year initial confinement and one year extended supervision on the bail jumping charge.

The no-merit report addresses whether the pleas were knowingly, intelligently, and voluntarily entered; whether Ellwart preserved or litigated any nonjurisdictional defenses or defects prior to entering his pleas; whether Ellwart's counsel was constitutionally effective; and whether the circuit court properly exercised its sentencing discretion.<sup>2</sup> This court is satisfied that the no-merit report properly analyzes the issues raised, and we will not discuss them further. Our independent review of the record fails to disclose any other potential issues for appeal.

Therefore,

IT IS ORDERED that the judgments are summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that attorney Erica L. Bauer is relieved of further representing Jonas Ellwart, Sr. 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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*Sheila T. Reiff*  
*Clerk of Court of Appeals*

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<sup>2</sup> We note the COMPAS risk assessment was mentioned in the presentence investigation report and during the State's argument at sentencing. However, the record shows it was not "determinative" of the sentence imposed. *See State v. Loomis*, 2016 WI 68, ¶¶98-99, 371 Wis. 2d 235, 881 N.W.2d 749. Any challenge to the sentence based on COMPAS would therefore lack arguable merit.