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DISTRICT II

July 17, 2019

To:

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

2018AP1516-CRNM State of Wisconsin v. Jose M. Perez (L.C. #2016CF214)

Before Neubauer, C.J., Reilly, P.J., and Gundrum, J.

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).

Jose M. Perez appeals from a judgment convicting him of first-degree sexual assault by use of a dangerous weapon. Appointed appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2017-18)¹ and *Anders v. California*, 386 U.S. 738 (1967). Perez was

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

advised of his right to file a response but has not done so. Upon consideration of the no-merit report and an independent review of the record as mandated by *Anders* and RULE 809.32, we summarily affirm the judgment because there is no arguable merit to any issue that could be raised on appeal. *See* WIS. STAT. RULE 809.21.

A woman, KC, and Perez struck up a conversation one night at a state park where KC was camping. KC claimed that after sharing some alcoholic beverages, Perez hit her on the head with a gun, knocking her out, and sexually assaulted her. Perez contended the sex was consensual. He denied any use of a weapon. After a three-day trial, the jury found him guilty of first-degree sexual assault by use of a dangerous weapon. He was sentenced to fifteen years' initial confinement and fifteen years' extended supervision. This no-merit appeal followed.

The no-merit report considers pretrial matters. The preliminary examination was timely held and an in-camera review of KC's mental health records was limited to the prior five years, with the court permitting just two pages of them. As for trial matters, the report examines voir dire, noting a successful *Batson*² challenge, the sufficiency of the evidence, the court's colloquy with Perez regarding his decision not to testify, and whether the jury was properly instructed. The report also explores the sentencing hearing, and the thoroughness of defense counsel's representation both before and at trial. As appellate counsel properly analyzed the potential issues, we need address them no further. We conclude, as did he, that there is no arguable merit to any of them. Our review of the record discloses no other potential issues for appeal.

Upon the foregoing reasons,

IT IS ORDERED that the judgment of conviction is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Dennis Schertz is relieved from further representing Perez in this appeal. *See* WIS. STAT. RULE 809.32(3).

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Sheila T. Reiff
Clerk of Court of Appeals

² *See Batson v. Kentucky*, 476 U.S. 79 (1986).