



OFFICE OF THE CLERK  
**WISCONSIN COURT OF APPEALS**

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  
Web Site: [www.wicourts.gov](http://www.wicourts.gov)

**DISTRICT III**

August 20, 2019

To:

Hon. Mark J. McGinnis  
Circuit Court Judge  
Outagamie County Justice Center  
320 S. Walnut St.  
Appleton, WI 54911

Barb Bocik  
Clerk of Circuit Court  
Outagamie County Courthouse  
320 S. Walnut St.  
Appleton, WI 54911

Ellen J. Krahn  
Assistant State Public Defender  
P.O. Box 7862  
Madison, WI 53707-7862

Melinda J. Tempelis  
District Attorney  
320 S. Walnut St.  
Appleton, WI 54911-5918

Criminal Appeals Unit  
Department of Justice  
P.O. Box 7857  
Madison, WI 53707-7857

Daniel P. Warmbier 657773  
Stanley Correctional Inst.  
100 Corrections Dr.  
Stanley, WI 54768

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

---

2018AP759-CRNM	State of Wisconsin v. Daniel P. Warmbier
2018AP760-CRNM	(L. C. Nos. 2016CF719, 2017CF186)

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 Daniel Warmbier filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2017-18),<sup>1</sup> concluding no grounds exist to challenge Warmbier's convictions for two counts of

---

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

first-degree sexual assault, by sexual contact with a child under age thirteen; seven counts of possession of child pornography; ten counts of sexual exploitation of a child; and five counts of child enticement with intent to expose a sex organ. Warmbier was informed of his right to file a response to the no-merit report and has not responded. Upon our independent review of the records as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude there is no arguable merit to any issue that could be raised on appeal. Therefore, the judgments of conviction are summarily affirmed. *See* WIS. STAT. RULE 809.21.

In Outagamie County Circuit Court case No. 2016CF719, the State charged Warmbier with one count of first-degree sexual assault of a child under age twelve, contrary to WIS. STAT. § 948.02(1)(b). The complaint described an alleged incident of sexual intercourse that occurred between Warmbier and then-ten-year-old Barbara.<sup>2</sup> In Outagamie County Circuit Court case No. 2017CF186, the State charged Warmbier with fifty-one offenses, including seventeen counts of possession of child pornography; twenty-four counts of sexual exploitation of a child; and ten counts of child enticement. The complaint described communications and electronic contact Warmbier had with Allison (born in October 1999) between 2013 and 2016, and it included lists and descriptions of video files, photo files and other electronic files found on Warmbier's laptop.

Pursuant to a global plea agreement, Warmbier pleaded no contest to an amended count of first-degree sexual assault, by sexual contact with a child under age thirteen, in case No. 2016CF719, and a second count of the same crime, involving the same victim, arising from

---

<sup>2</sup> Pursuant to WIS. STAT. RULE 809.86(4), we use pseudonyms for the two victims referenced herein.

Dunn County Circuit Court case No. 2016CF271.<sup>3</sup> With respect to case No. 2017CF186, Warmbier pleaded no contest to seven counts of possession of child pornography, ten counts of child sexual exploitation, and five counts of child enticement. The remaining counts were dismissed and read in, and both sides remained free to argue at sentencing following completion of a presentence investigation report. Out of a maximum possible 820-year sentence, the circuit court ultimately imposed an aggregate fifty-five-year sentence consisting of twenty-three years' initial confinement followed by thirty-two years' extended supervision.<sup>4</sup> Warmbier also received 313 days of sentence credit.

Warmbier, through counsel, filed a postconviction motion to amend the judgments of conviction to allow him to have contact with his five-year-old son, if permitted by the Department of Corrections. After a hearing, the court granted Warmbier's motion. This no-merit appeal follows.

The no-merit report addresses whether Warmbier knowingly, intelligently and voluntarily entered his no-contest pleas; whether the circuit court properly exercised its sentencing discretion; and whether Warmbier received the appropriate amount of sentence credit. Upon reviewing the records, we agree with counsel's description, analysis, and conclusion that any challenge to Warmbier's pleas or sentences—including any claim that Warmbier is entitled to

---

<sup>3</sup> The Dunn County and Outagamie County cases were ordered consolidated by stipulation.

<sup>4</sup> For the two counts in case No. 2016CF719, the circuit court initially imposed concurrent forty-year sentences consisting of fifteen years' initial confinement and twenty-five years' extended supervision. After sentencing, the Department of Corrections informed the court that the maximum term of extended supervision for those offenses was twenty years. The court amended the judgment accordingly, reducing Warmbier's term of extended supervision from twenty-five years to twenty years for those crimes.

additional sentence credit—would lack arguable merit. Our independent review of the records discloses no other potential issue for appeal.

Therefore,

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

IT IS FURTHER ORDERED that attorney Ellen Krahn<sup>5</sup> is relieved of her obligation to further represent Daniel Warmbier in these matters. *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*

---

<sup>5</sup> Although attorney Jeremy A. Newman submitted the no-merit report, attorney Krahn was later substituted as counsel in this matter.