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**DISTRICT II**

October 28, 2020

To:

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

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2019AP1831-CRNM      State of Wisconsin v. Gerald Pineda (L.C. #2016CF776)

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).**

Gerald Pineda appeals from a judgment convicting him of repeated sexual assault of the same child. Pineda's appointed appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2017-18)<sup>1</sup> and *Anders v. California*, 386 U.S. 738 (1967). Pineda was

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

informed 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.

Pineda's daughter accused him of regularly having sexual intercourse with her over several years, beginning when she was eleven or twelve. After a three-day trial, the jury found Pineda guilty. The court sentenced him to fourteen years' initial confinement and ten years' extended supervision. This no-merit appeal followed.

Appellate counsel's comprehensive no-merit report thoroughly summarizes the full record. We agree with counsel's legal analysis and conclusions that none of the issues have arguable merit. We need address them no further.

Our independent review identified only one additional item, which arose at the sentencing hearing. Defense counsel told the court that a member of Pineda's family suggested that the verdict was known before it was presented to the court because the family understood the victim/witness coordinator to say that they might want to keep their young children out of the courtroom when the verdict was read because they would not be happy with the outcome. The court and the victim/witness coordinator both emphasized that they did not know the verdict before it was presented. Pineda admittedly often viewed what was termed "daddy/daughter" pornography and the highly graphic film names were recited in court. Upon further probing, the court determined that, in part because of a language barrier, the family misconstrued the caution as pertaining to the verdict, when it was more broadly meant for other disclosures and that there was no instance of jury tampering. We conclude there is no arguable merit to this issue.

Our review of the record discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit report, affirms the conviction, and discharges appellate counsel of the obligation to represent Pineda further in this appeal. Therefore,

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

IT IS FURTHER ORDERED that Attorney Erica L. Bauer is relieved from further representing Pineda in this appeal. *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*