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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  
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**DISTRICT III**

December 7, 2021

To:

Hon. Joseph D. Boles  
Circuit Court Judge  
Electronic Notice

Kerry Feuerhelm  
Clerk of Circuit Court  
Pierce County Courthouse  
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Winn S. Collins  
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Kathilynne Grotelueschen  
Electronic Notice

Halle Elizabeth Hatch  
Electronic Notice

Adam M. Fisher  
Wisconsin Resource Center  
P.O. Box 220  
Winnebago, WI 54985-0220

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

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2019AP1660-CRNM      State of Wisconsin v. Adam M. Fisher (L. C. No. 2016CF208)

Before Stark, P.J., Hruz and Gill, 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 Adam Fisher has filed a no-merit report concluding no grounds exist to challenge Fisher's convictions for repeated sexual assault of a child and two counts of incest, contrary to WIS. STAT. §§ 948.025(1)(e) (2019-20),<sup>1</sup> and 948.06(1), respectively. Fisher was informed of his right to file a response to the no-merit report, and he has not done so. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

conclude there is no arguable merit to any issue that could be raised on appeal. Therefore, we summarily affirm the judgment of conviction. *See* WIS. STAT. RULE 809.21.

The State charged Fisher with four counts of repeated sexual assault of a child and three counts of incest, with the charges involving children related to him by blood or adoption to a degree of kinship closer than second cousin. At the outset of the criminal proceedings, the circuit court granted defense counsel's request for a competency examination. An initial examiner's evaluation was inconclusive because Fisher refused to fully cooperate with the evaluation. Following an inpatient evaluation, another examiner's report stated that Fisher was competent to proceed. At a hearing, the parties and the court agreed that Fisher was competent to proceed. Defense counsel subsequently moved for another competency examination, stating that Fisher was so heavily medicated that he was unable to track or remember conversations with his counsel. Two examiners' reports with opposing conclusions were filed with the court, and after a hearing, the court found Fisher competent to proceed.

In exchange for his guilty pleas to one count of repeated sexual assault of a child and two counts of incest, the State agreed to recommend that the circuit court dismiss the remaining counts outright. The State also agreed to cap its sentence recommendation at fifteen years' initial confinement and fifteen years' extended supervision, and it made a recommendation at sentencing for three concurrent sentences consistent with that agreement. The defense remained free to argue at sentencing. Out of maximum possible sentences totaling 120 years, the court imposed three concurrent thirty-year terms consisting of fifteen years' initial confinement and fifteen years' extended supervision.

Although the no-merit report does not specifically address it, we conclude there is no arguable merit to challenge the circuit court’s competency determinations. “No person who lacks substantial mental capacity to understand the proceedings or assist in his or her defense may be tried, convicted, or sentenced for the commission of an offense so long as the incapacity endures.” *State v. Byrge*, 2000 WI 101, ¶28, 237 Wis. 2d 197, 614 N.W.2d 477 (citation omitted). To determine legal competency, the circuit court considers a defendant’s present mental capacity to understand and assist at the time of the proceedings. *Id.*, ¶¶30-31. A circuit court’s competency determination should be reversed only when clearly erroneous. *Id.*, ¶46.

After his inpatient evaluation—related to the first competency proceeding—an examining psychologist submitted a report opining to a reasonable degree of professional certainty that Fisher had the substantial mental capacity to understand the proceedings against him and to assist his attorney in his own defense. At the competency hearing, the State and Fisher’s counsel agreed that Fisher was competent. Based on the psychologist’s report, the circuit court found Fisher competent to proceed. With respect to the second competency proceeding, examining psychologists reached opposing conclusions on Fisher’s competence to proceed. After a hearing at which the psychologists testified, the court weighed the experts’ credibility and ultimately found that Fisher had the substantial mental capacity to understand the proceedings against him and to assist in his own defense. The record supports the court’s determinations.

The no-merit report addresses whether Fisher knowingly, intelligently and voluntarily entered his guilty pleas; whether the circuit court properly exercised its sentencing discretion; and whether there are any grounds to pursue a motion for resentencing or sentence modification. Upon reviewing the record, we agree with counsel’s description, analysis, and conclusion that any challenge to Fisher’s pleas or sentences would lack arguable merit. The no-merit report sets

forth an adequate discussion of the potential issues to support the no-merit conclusion, and we need not address them further. Our independent review of the record discloses no other potential issue for appeal.

Therefore,

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

IT IS FURTHER ORDERED that Attorney Kathilynne A. Grotelueschen is relieved of her obligation to further represent Adam Fisher 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*