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DISTRICT III

December 7, 2021

To:

Hon. Mark J. McGinnis
Circuit Court Judge
Electronic Notice

Barb Bocik
Clerk of Circuit Court
Outagamie County Courthouse
Electronic Notice

Winn S. Collins
Electronic Notice

Andrew Hinkel
Electronic Notice

Charles M. Stertz
Electronic Notice

John F. Collins
Walworth County Jail
1770 County Road NN
Elkhorn, WI 53121

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

2019AP1236-CRNM State of Wisconsin v. John F. Collins (L. C. No. 2016CF848)

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 John Collins has filed a no-merit report concluding there is no basis to challenge Collins' conviction for second-degree sexual assault of a child. Collins was advised of his right to file a response 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 (2019-20).¹

According to the criminal complaint, nineteen-year-old Collins touched a thirteen-year-old girl's vagina under her clothing while living in a group home. Collins admitted that his fingers had penetrated the child's vagina "a little." Collins was on a deferred prosecution agreement at the time after being charged with burglary for breaking into a neighbor's house and stealing women's underwear.

Collins initially pleaded not guilty by reason of mental disease or defect (NGI) and requested a psychological examination. The examiner's opinion was that Collins appreciated the wrongfulness of his conduct and had the capacity to conform to the requirements of the law. The examiner further concluded there was no support for Collins' NGI plea.

Collins subsequently pleaded no contest to the single charge of second-degree sexual assault of a child, and the State agreed to follow the recommendation of the presentence investigation report (PSI). The PSI recommended six to eight years' initial confinement and five to six years' extended supervision. The circuit court withheld sentence and placed Collins on fifteen years' probation with one year of conditional jail time, although the jail time was to be revisited if a suitable living arrangement could be made.

The no-merit report addresses whether Collins' plea was knowingly, intelligently, and voluntarily entered; and whether the circuit court erroneously exercised its sentencing discretion.

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

This court is satisfied that the no-merit report properly analyzes the issues raised, and we will not further discuss them. Our independent review of the record discloses no other potential issues for appeal.²

Therefore, upon the foregoing,

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

IT IS FURTHER ORDERED that Attorney Andrew Hinkel is relieved of further representing John Collins in this matter. *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 We note the circuit court failed to advise Collins of the deportation consequences of his plea. *See Padilla v. Kentucky*, 559 U.S. 356, 374 (2010). However, the no-merit report represents that Collins was born in the United States and is a citizen. Collins did not respond to the no-merit report, and the issue is thus conceded. There is thus no basis to challenge the failure to advise of the deportation consequences.