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**DISTRICT II**

January 12, 2022

To:

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Clerk of Circuit Court  
Winnebago County  
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Patricia Sommer  
Electronic Notice

Steven A. Pfaff  
P.O. Box 42  
Hortonville, WI 54944

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

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2021AP820-CRNM      State of Wisconsin v. Steven A. Pfaff (L.C. #2018CF525)

Before Gundrum, P.J., Grogan and Kornblum, 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).**

Steven A. Pfaff appeals a judgment of conviction entered on his no-contest pleas to two counts of aggravated battery contrary to WIS. STAT. § 940.19(4) (2019-20)<sup>1</sup> and one count of substantial battery contrary to § 940.19(2). Pfaff's appointed appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 and *Anders v. California*, 386 U.S. 738 (1967). Pfaff was advised of his right to file a response but has not done so. Upon consideration of the

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

no-merit report and an independent review of the record as mandated by *Anders* and RULE 809.32, we conclude there is no arguable merit to any issue that could be raised on appeal and summarily affirm the judgment. *See* WIS. STAT. RULE 809.21(1).

Pfaff was initially charged with attempted first-degree intentional homicide, arson, first-degree reckless injury, first-degree recklessly endangering safety, aggravated battery and felony intimidation of a witness. The criminal complaint details the victim's report to police that he had fallen asleep while traveling with Pfaff in Pfaff's vehicle and awoke to Pfaff throwing him to the ground outside and choking him. Pfaff then severely beat him with a hard object. The victim was able to escape, with Pfaff pursuing and continuing to strike him. He sought refuge in a nearby house and locked himself in a bedroom. He heard Pfaff banging on walls, then smelled smoke and realized the house had been set on fire. He was able to escape and flagged down a nearby officer. During a jail phone call, Pfaff told his girlfriend he needed the victim to "drop this whole thing" and suggested that his girlfriend talk to the victim.

After Pfaff discharged his initial appointed attorney in late August 2018, his preliminary hearing was delayed for good cause until after a new attorney was appointed in October.<sup>2</sup> After discovery, the State engaged Pfaff in plea negotiations. The parties ultimately agreed that Pfaff

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<sup>2</sup> We note that the Wisconsin Supreme Court currently has pending before it *State v. Lee*, Appeal No. 2019AP221-CR, in which the defendant challenged whether delays in holding the preliminary hearing due to the failure to appoint counsel could constitute good cause. Unlike the delay in *Lee*, here the delays were occasioned by Pfaff's request that his initial appointed attorney withdraw. Additionally, the court commissioner here noted when granting the initial adjournment that the difficulty with finding counsel involved locating individuals who were qualified to handle charges as significant as the ones Pfaff was facing and who had the time to do so. At a subsequent hearing, the commissioner observed that the state public defender had called upwards of seventy attorneys. As a result, we perceive no meritorious basis for appeal based upon the fact that the preliminary hearing was not held within ten days. *See* WIS. STAT. § 970.03(2).

would plead no contest to the crimes of conviction, as reflected in a Second Amended Information. The State justified the amendment by noting it had the strongest case on those charges and the victim “missed his friend” and did not want to have Pfaff serve a significant period of time in custody. The defense was free to argue at sentencing, while the State agreed to recommend a total sentence of three to four years’ initial confinement and four years’ extended supervision.

At the plea hearing, the circuit court engaged Pfaff in a thorough personal colloquy. It accepted his pleas, finding that they were knowingly, intelligently and voluntarily made and that a sufficient factual basis existed for them. Pfaff’s bond was reduced to reflect the amended charges and the case then proceeded to sentencing. After considering Pfaff’s character and criminal history, the seriousness of the offenses, his rehabilitative needs and need for general deterrence, the court sentenced Pfaff to concurrent sentences totaling two years’ initial confinement and two years’ extended supervision.

The no-merit report addresses whether Pfaff could raise nonfrivolous arguments related to: (1) the sufficiency of the plea colloquy; (2) whether Pfaff’s pleas were knowing, intelligent and voluntary; (3) whether a factual basis existed for Pfaff’s pleas; and (4) whether the circuit court erroneously exercised its sentencing discretion. Our review of the appellate record satisfies us that the no-merit report sufficiently analyzes these issues and properly concludes that any challenge based upon them would lack arguable merit. Our review of the appellate record discloses no other potentially meritorious issues for appeal.

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

IT IS FURTHER ORDERED that Attorney Patricia Sommer is relieved from further representing Steven A. Pfaff 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*