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**DISTRICT I**

January 25, 2022

To:

Hon. Joseph R. Wall  
Circuit Court Judge  
Electronic Notice

John Barrett  
Clerk of Circuit Court  
Milwaukee County  
Electronic Notice

Winn S. Collins  
Electronic Notice

Angela Conrad Kachelski  
Electronic Notice

Aaron M. Grandberry 670653  
Fox Lake Correctional Inst.  
P.O. Box 200  
Fox Lake, WI 53933-0200

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

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2019AP1838-CRNM      State of Wisconsin v. Aaron M. Grandberry (L.C. # 2018CF1381)

Before Brash, C.J., Dugan and White, 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).**

Aaron M. Grandberry appeals from a judgment convicting him of operating a vehicle without the owner's consent (armed carjacking) and felony bail jumping. Grandberry's appellate counsel, Angela Conrad Kachelski, has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2019-20), and *Anders v. California*, 386 U.S. 738 (1967).<sup>1</sup> Grandberry received a copy of the report, was advised of his right to file a response, and has elected not to do so. Upon

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

consideration of the report and an independent review of the record as mandated by *Anders*, we conclude that the judgment may be summarily affirmed because there is no arguable merit to any issue that could be raised on appeal. *See* WIS. STAT. RULE 809.21.

The charges against Grandberry stemmed from an incident that occurred on March 13, 2018. According to the complaint, the victim used an application on his phone to list his BMW car for sale. An individual who said his name was “Kody” subsequently contacted the victim and expressed interest in purchasing the car. Kody and the victim made arrangements to meet outside of a Target store to complete the sale. The victim arrived at the predetermined time with his uncle and a friend who accompanied him for safety reasons. The victim’s uncle and friend waited in the uncle’s vehicle.

Upon parking at the Target, Grandberry approached the BMW and asked the victim if he could take it for a test drive. The victim agreed and got into the passenger seat. They then left the parking lot with the victim’s uncle and friend following. The uncle and friend subsequently lost track of the BMW. The victim later told police that at one point during the test drive, Grandberry said he wanted to check on a noise that was coming from the front passenger side. Grandberry stopped the car in a parking lot and after the two got out, Grandberry displayed a handgun and told the victim to give him the title to the car and the victim’s phone. The victim gave Grandberry the title. Grandberry then got back into the car and drove off, without taking the victim’s phone.

The complaint further alleged that Grandberry was released on bail one month before committing the offenses, and a condition of his bail was that he not commit new criminal offenses.

Grandberry proceeded to trial, and a jury found him guilty of both charges. For the charge of armed carjacking, the circuit court ordered him to serve ten years of initial confinement and five years of extended supervision with eligibility for the Challenge Incarceration Program after eight years. On the charge of bail jumping, the circuit court ordered Grandberry to serve a concurrent sentence of one year of initial confinement and one year of extended supervision. Following a hearing, the circuit court ordered Grandberry to pay restitution totaling \$2,977.61 and extradition costs totaling \$1,257.<sup>2</sup> This appeal follows.

The no-merit report addresses, among other things, the circuit court's ruling on Grandberry's suppression motion, the sufficiency of the evidence, and the trial court's exercise of its sentencing discretion. This court is satisfied that the no-merit report properly analyzes the issues it raises as being without merit and that no procedural trial errors occurred. We will briefly elaborate only on the issue of Grandberry's suppression motion.

We conclude that the record discloses no arguable basis for challenging the denial of Grandberry's motion to suppress his statement to police. If a defendant moves to suppress his or her statements because of law enforcement's failure to timely warn of the risks and consequences of self-incrimination (*Miranda*), or based on the voluntariness of the statements (*Goodchild*), the circuit court conducts a *Miranda-Goodchild* hearing to determine the validity of the accused's statements and whether suppression is warranted.<sup>3</sup>

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<sup>2</sup> Grandberry was arrested in Texas.

<sup>3</sup> See *Miranda v. Arizona*, 384 U.S. 436 (1966); *State ex rel. Goodchild v. Burke*, 27 Wis. 2d 244, 133 N.W.2d 753 (1965).

Here, Grandberry contested only the voluntariness of his statement to police. Trial counsel did not file any written submissions in support of his motion but asserted that Grandberry may have been in pain during the custodial interview where he confessed to committing the carjacking. Trial counsel argued that Grandberry's hip pain from an unrelated car accident "might have been a source of [Grandberry's] inability to resist questioning because he wanted to get out of the interrogation at some point to receive some type of comfort sitting in the jail cell with his bad hip."

At the suppression hearing, the State presented testimony from the detective who interviewed Grandberry and also submitted the DVD exhibit containing the recorded interview. The evidence revealed that Grandberry had been in the hospital earlier on the day of the interview due to hip pain he was experiencing from a prior car accident.

In its findings, the circuit court detailed its observations of the portions of the DVD it had reviewed of the detective's interview of Grandberry. The circuit court referenced the portion of the video where Grandberry talked about taking Tylenol and ibuprofen, and affirmatively stated that the medications were not affecting him. When the detective asked Grandberry whether his pain was to such an extent that he was unable to continue the interview, the video showed that Grandberry indicated he was able to continue. The circuit court found the detective's testimony during the hearing "to be very, very credible" and found it was corroborated by the video.

Upon review of the lower court proceedings involving a *Miranda-Goodchild* hearing, this court will not upset the findings of fact unless it appears that they are against the great weight and clear preponderance of the evidence. *See Norwood v. State*, 74 Wis. 2d 343, 361, 246 N.W.2d 801 (1976). When determining whether a confession or admission is voluntary, we

look to the totality of circumstances. *See State v. Schneidewind*, 47 Wis. 2d 110, 117, 176 N.W.2d 303 (1970). In order to find a defendant’s statement involuntary, “there must be some affirmative evidence of improper police practices deliberately used to procure a confession.” *State v. Clappes*, 136 Wis. 2d 222, 239, 401 N.W.2d 759 (1987). Our supreme court has specifically “reject[ed] the contention that the sole existence of pain provides an ‘aura’ of coercion sufficient to find the statements involuntary[.]” *Id.* at 244. Here, the circuit court’s findings are supported by the record, and we agree with the circuit court’s conclusion that Grandberry’s statement was freely and voluntarily made.

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

Upon the foregoing, therefore,

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

IT IS FURTHER ORDERED that Attorney Angela Conrad Kachelski is relieved of further representation of Aaron M. Grandberry 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*