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**DISTRICT IV**

February 24, 2022

To:

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Raymond Donald Keyser 677304  
Redgranite Correctional Inst.  
P.O. Box 925  
Redgranite, WI 54970-0925

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

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2020AP1680-CRNM      State of Wisconsin v. Raymond Donald Keyser (L.C. # 2015CF75)

Before Kloppenburg, Graham, and Nashold, 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).**

Attorney Jeremy Newman, as appointed counsel for Raymond Keyser, has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2019-20)<sup>1</sup> and *Anders v. California*, 386 U.S. 738, 744 (1967). Counsel provided Keyser with a copy of the report, and both counsel and this court advised him of his right to file a response. Keyser has not responded. We conclude that this case is appropriate for summary disposition. See WIS. STAT. RULE 809.21. After our

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

independent review of the record, we conclude that there is no arguable merit to any issue that could be raised on appeal.

After a jury trial, Keyser was convicted of one count of physical abuse of a child, recklessly causing great bodily harm, in violation of WIS. STAT. § 948.03(3)(a). The circuit court imposed a sentence of eight years of initial confinement and five years of extended supervision.

The no-merit report addresses whether the evidence was sufficient to support the conviction. We affirm the verdict “unless the evidence, viewed most favorably to the state and the conviction, is so insufficient in probative value and force that no reasonable trier of fact ... could have found guilt beyond a reasonable doubt.” *State v. Poellinger*, 153 Wis. 2d 493, 501, 451 N.W.2d 752 (1990). Credibility of witnesses is for the trier of fact. *Id.* at 504.

Without attempting to recite all of the evidence here, we are satisfied that there would be no arguable merit to challenging the sufficiency of the evidence. To find Keyser guilty of the charged offense, the jury was required to find that the State proved the following elements beyond a reasonable doubt: that Keyser caused great bodily harm to the victim, A.R.M.; that Keyser recklessly caused great bodily harm; and that A.R.M. was less than 18 years old at the time of the offense. *See* WIS. STAT. § 948.03(3)(a); *see also* WIS JI—CRIMINAL 2111. The State elicited testimony at trial that A.R.M. was eight months old at the time of the injuries. It was undisputed that the injuries suffered by A.R.M. constituted great bodily harm. The only contested element, then, was whether Keyser recklessly caused A.R.M.’s injuries.

The jury heard evidence from the police officer who responded to the 911 call that, according to Keyser, A.R.M.’s injuries were caused when the child’s unbuckled car seat fell off the bed and onto the floor, when Keyser accidentally bumped the car seat. The jury also heard

recorded interviews of Keyser that were conducted by police detectives following the incident. In addition, the State elicited extensive expert testimony that the type of injuries suffered by A.R.M. were not consistent with the type of short, accidental fall that Keyser described but, rather, were much more commonly associated with abuse. The jury also heard extensive expert testimony elicited by the defense to cast doubt upon the State's expert testimony.

As counsel asserts in the no-merit report, the evidence at trial came down largely to a "battle of the experts." In cases where there is conflicting expert testimony, such as this one, it is the role of the trier of fact to determine weight and credibility. *Schultz v. State*, 87 Wis. 2d 167, 173, 274 N.W.2d 614 (1979). "It is generally not the province of the reviewing court to determine issues of credibility." *State v. Wachsmuth*, 166 Wis. 2d 1014, 1023, 480 N.W.2d 842 (Ct. App. 1992). The evidence presented by the State, if believed by the jury, was sufficient to support all elements of the charge. In light of the above standard of review, there is no basis to argue that the evidence was insufficient.

The no-merit report addresses whether the circuit court erred by denying Keyser's final request for a continuance of the jury trial. "The decision to grant or deny a continuance is a matter within the discretion of the trial court." *State v. Wedgeworth*, 100 Wis. 2d 514, 520, 302 N.W.2d 810 (1981). Here, the circuit court previously had granted a continuance of the trial at Keyser's request. In denying Keyser's final motion for a continuance, the court stated its reasoning on the record, weighing Keyser's request for more time against the fact that the case already had been pending for four years, as well as the desire of A.R.M.'s mother to move the case along. We see no arguably meritorious basis to assert that this was an erroneous exercise of discretion.

The no-merit report also addresses whether the sentencing court erroneously exercised its sentencing discretion. The standards for the circuit court and this court on sentencing issues are well established and need not be repeated here. See *State v. Gallion*, 2004 WI 42, ¶¶17-51, 270 Wis. 2d 535, 678 N.W.2d 197. In this case, the court considered appropriate factors, did not consider improper factors, and reached a reasonable result. There is no arguable merit to this issue.

An independent review of the record discloses no other potential issues for appeal.

Accordingly,

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

IT IS FURTHER ORDERED that attorney Jeremy Newman is relieved of any further representation of Raymond Keyser in this matter pursuant to 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*