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WISCONSIN COURT OF APPEALS

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
Web Site: www.wicourts.gov

DISTRICT II

March 9, 2022

To:

Hon. Faye M. Flancher
Circuit Court Judge
Electronic Notice

Samuel A. Christensen
Clerk of Circuit Court
Racine County
Electronic Notice

Patricia J. Hanson
Electronic Notice

Diane Lowe
Electronic Notice

Winn S. Collins
Electronic Notice

Dwight Justin Kaiser, #670678
Green Bay Correctional Inst.
P.O. Box 19033
Green Bay, WI 54307-9033

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

2019AP1852-CRNM State of Wisconsin v. Dwight Justin Kaiser (L.C. #2016CF375)

Before Gundrum, P.J., Neubauer 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).

Dwight Justin Kaiser appeals from a judgment convicting him of child enticement and incest with a child. His appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2019-20)¹ and *Anders v. California*, 386 U.S. 738 (1967). Kaiser filed a response. Counsel then filed a supplemental no-merit report. After reviewing the record, counsel's reports,

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

and Kaiser's response, we conclude there are no issues with arguable merit for appeal. We summarily affirm the judgment. *See* WIS. STAT. RULE 809.21.

Kaiser was convicted following a jury trial of child enticement and incest with a child. He was accused of enticing and having sexual intercourse with his then nine-year-old daughter. For his actions, the circuit court imposed an aggregate sentence of thirty years of initial confinement and twenty-five years of extended supervision. This no-merit appeal follows.

The no-merit report addresses (1) whether the circuit court properly allowed the State to introduce other acts evidence at trial;² (2) whether the evidence at trial was sufficient to support the convictions; (3) whether the circuit court properly exercised its discretion at sentencing; and (4) whether other matters—including jury selection, jury instructions, Kaiser's waiver of his right to testify, and opening statements/closing arguments—were handled appropriately. This court is satisfied that the no-merit report correctly analyzes the issues it raises as without merit.

As noted, Kaiser filed a response to the no-merit report. In it, he references some of the issues addressed by the no-merit report, which we will not discuss further. He also presents numerous non-issues in the form of irrelevant observations, speculation, and conclusory assertions. In any event, we are not persuaded that Kaiser's response presents an issue of arguable merit.

² The other acts evidence were three prior convictions involving allegations of sexual misconduct towards minor females or persons Kaiser reasonably believed to be minor females. The circuit court concluded that the convictions could be presented to the jury for consideration as to motive, intent, and absence of mistake or accident.

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

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Diane Lowe is relieved of further representation of Dwight Justin Kaiser in this appeal. *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