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**DISTRICT III**

March 15, 2022

To:

Hon. John Zakowski  
Circuit Court Judge  
Electronic Notice

John VanderLeest  
Clerk of Circuit Court  
Brown County Courthouse  
Electronic Notice

Angela Dawn Chodak  
Electronic Notice

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David L. Lasee  
Electronic Notice

Adrian Sterling Durden 566895  
Stanley Correctional Inst.  
100 Corrections Dr.  
Stanley, WI 54768

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

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2019AP1656-CRNM      State of Wisconsin v. Adrian Sterling Durden  
(L. C. No. 2018CF129)

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 Adrian Durden has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2019-20),<sup>1</sup> concluding that no grounds exist to challenge Durden's convictions for repeated sexual assault of the same child; incest; first-degree sexual assault of a child; and intimidation of a witness. Durden was informed of his right to file a response to the no-merit report and has not responded. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude there is no arguable merit to any issue

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

that could be raised on appeal. Therefore, we summarily affirm the judgment of conviction. *See* WIS. STAT. RULE 809.21.

The State initially charged Durden with three counts in this case: repeated sexual assault of the same child; incest; and first-degree sexual assault of a child. The charges were based on allegations that Durden had sexually assaulted his biological daughter on multiple occasions. The State subsequently moved to join this case with Brown County case No. 2018CF201, in which Durden had been charged with intimidation of a witness based on allegations that he had attempted to dissuade the victim's mother from testifying at his trial in this case. Following a hearing, the circuit court granted the State's motion for joinder. The State then filed an amended Information in the instant case adding a charge of intimidation of a witness. A jury trial on all four counts took place in August 2018, and the jury found Durden guilty of each of the charges. The court imposed concurrent sentences totaling twenty-five years' initial confinement and ten years' extended supervision.<sup>2</sup>

The no-merit report addresses whether the circuit court erroneously exercised its discretion by granting the State's motion for joinder; whether Durden knowingly, intelligently, and voluntarily waived his right to testify at trial; whether the court erred by denying Durden's motion for a mistrial; whether there was sufficient evidence to support the jury's verdicts; whether the court properly instructed the jury; and whether the court properly exercised its sentencing discretion. We agree with counsel's description, analysis, and conclusion that any

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<sup>2</sup> Pursuant to WIS. STAT. § 939.616(1r), the circuit court was required to impose a minimum of twenty-five years' initial confinement on the repeated sexual assault of the same child charge and on the first-degree sexual assault of a child charge.

challenge to Durden’s convictions or sentences on these grounds would lack arguable merit, and we therefore do not address them further.

The no-merit report also asserts that Durden’s trial attorney “did not overlook any potentially meritorious defenses, motions, or objections.” Having independently reviewed the record, we agree that there would be no arguable merit to a claim that Durden’s trial attorney was constitutionally ineffective. The no-merit report also contends that the selection of the jury in this case was “regular and fair.” Again, our review of the record confirms that there would be no arguable merit to a claim that any errors occurred during the jury selection process.

Finally, the no-merit report asserts that appellate counsel received information that someone from the district attorney’s office paid a parking ticket for the victim’s mother. Counsel asserts, however, that “a conversation with [the victim’s mother] revealed no meritorious arguments for postconviction or appellate relief based on this allegedly paid parking ticket.” There is nothing in the appellate record to dispute counsel’s representation in this regard. Based on counsel’s representation, we agree that any claim based on the alleged payment of the parking ticket would lack arguable merit.

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

Therefore,

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

IT IS FURTHER ORDERED that Attorney Angela Dawn Chodak is relieved of further representing Adrian Durden 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*