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**DISTRICT III**

May 17, 2022

To:

Hon. Nancy J. Krueger  
Circuit Court Judge  
Electronic Notice

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Outagamie County Courthouse  
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Stanley, WI 54768

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

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2019AP1837-CRNM      State of Wisconsin v. Adam Ross Barthelemy  
(L. C. No. 2017CF640)

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).**

Adam Barthelemy appeals from a judgment convicting him of child enticement. Attorney Erica Bauer has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2019-20).<sup>1</sup> The no-merit report sets forth the procedural history of the case and addresses Barthelemy's plea and sentence. Barthelemy has filed a response asserting

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

that the circuit court failed to give adequate consideration to his mental health issues.<sup>2</sup> Having independently reviewed the entire record as mandated by *Anders v. California*, 386 U.S. 738, 744 (1967), we conclude there are no arguably meritorious issues for appeal.

The State charged Barthelemy in an amended Information with using a computer to facilitate a child sex crime, attempted trafficking of a child, and child enticement. The charges arose out of a sting operation in which an undercover officer posed online as a fourteen-year-old girl. Barthelemy used an app on his phone to ask the fictitious girl to meet him in a park and have sex with him, offering to bring alcohol and to pay her if he did not need to use a condom. Police arrested Barthelemy when he arrived at the park.

Barthelemy pled no contest to the child-enticement charge. In exchange, the other charges were dismissed and read in, and the State agreed to cap its sentence recommendation at five years' initial confinement. The circuit court accepted Barthelemy's plea after conducting a plea colloquy and reviewing a signed plea questionnaire and waiver of rights form.

The circuit court subsequently held a sentencing hearing at which the parties addressed the presentence investigation report, provided recommendations in accordance with the plea agreement, and Barthelemy exercised his right of allocution. After hearing from the parties, the court discussed the proper sentencing factors, including the gravity of the offense, the character of the offender, Barthelemy's mental health issues and rehabilitative needs, and the need to protect the public. The court then sentenced Barthelemy to one and one-half years' initial

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<sup>2</sup> The response also takes issue with the length of the sentence Barthelemy received in another case that is not before us in this appeal.

confinement and four years' extended supervision, to be served consecutively to a prior sentence Barthelemy was already serving.

We agree with counsel's description, analysis and conclusion that any challenge to the plea or sentence would lack arguable merit. In particular, we note that the circuit court commented that Barthelemy's mental health reports "go both ways in terms of whether they're positives or negatives." The court further explained that, according to the reports, Barthelemy was suggestible, he lacked insight into the behavior of others, he suffered from "other specified paraphilic disorder with exhibitionist, voyeuristic and [tele-scatologic] features ... moving into pedophilia unless interrupted by medical and psychological treatment." The court noted that Barthelemy knew right from wrong, but that "he had a need for stress relief that was so intense it broke through his decision-making ability [and] impaired his functioning." In other words, the court did consider Barthelemy's mental health issues—it merely took a different view of them than that advanced by Barthelemy.

Our independent review of the record discloses no other potential issues for appeal.<sup>3</sup> We conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders*. Accordingly, counsel shall be allowed to withdraw, and the judgment of conviction will be summarily affirmed. *See* WIS. STAT. RULE 809.21.

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<sup>3</sup> Any other possible appellate issues from the proceedings before entry of the plea are forfeited because Barthelemy's no-contest plea forfeited the right to raise nonjurisdictional defects and defenses, including claimed violations of constitutional rights. *See State v. Kelty*, 2006 WI 101, ¶18 & n.11, 294 Wis. 2d 62, 716 N.W.2d 886; *see also State v. Lasky*, 2002 WI App 126, ¶11, 254 Wis. 2d 789, 646 N.W.2d 53.

Upon the foregoing,

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

IT IS FURTHER ORDERED that Attorney Erica Bauer is relieved of any further representation of Adam Barthelemy 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*