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**DISTRICT III**

May 17, 2022

To:

Hon. Timothy A. Hinkfuss  
Circuit Court Judge  
Electronic Notice

John VanderLeest  
Clerk of Circuit Court  
Brown County Courthouse  
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Carl W. Chesshir  
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Yoalmo Ruberman Clavel-Hernandez  
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P.O. Box 19033  
Green Bay, WI 54307-9033

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

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2019AP2129-CRNM      State of Wisconsin v. Yoalmo Ruberman Clavel-Hernandez  
2019AP2130-CRNM      (L. C. Nos. 2016CF279, 2016CF1417)

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).**

Yoalmo Clavel-Hernandez appeals from judgments of convictions for sexual assault charges in two related cases involving four separate victims. Attorney Carl Chesshir 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 cases and addresses Clavel-Hernandez's pleas and sentences. We advised Clavel-Hernandez of his right to respond

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

to the no-merit report, but he has not filed a response. 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 Clavel-Hernandez in Brown County case No. 2016CF279 with two counts of second-degree sexual assault, one count of false imprisonment, one count of fourth-degree sexual assault, and one count of second-degree sexual assault of a child—all stemming from incidents that occurred with co-workers at Clavel-Hernandez’s place of employment. The State subsequently charged Clavel-Hernandez in Brown County case No. 2016CF1417 with repeated sexual assault of a child for incidents involving his daughter.

Pursuant to a global plea agreement, Clavel-Hernandez pled no contest to one count of second-degree sexual assault, one count of fourth-degree sexual assault, and one count of second-degree sexual assault of a child in the first case, and to an amended charge of repeated sexual assault of a child that did not contain a mandatory-minimum sentence in the second case. In exchange, the State agreed to dismiss and read in the remaining charges in the first case and to cap its combined sentence recommendation at twenty years’ initial confinement, while remaining free to argue the length and conditions of extended supervision. The circuit court accepted Clavel-Hernandez’s pleas after conducting a plea colloquy with the assistance of an interpreter and reviewing a signed plea questionnaire and waiver of rights form that was completed in Spanish, with attached jury instructions in English, for each case.

Clavel-Hernandez moved to withdraw his pleas prior to sentencing, asserting actual innocence and alleging that he felt compelled to accept the State’s plea offer in light of the racial composition of the jury pool and the order in which the cases were to be tried. The circuit court

determined that Clavel-Hernandez had failed to provide a fair and just reason for plea withdrawal and denied the motion. The court found that Clavel-Hernandez's assertion of innocence was merely a change of heart about going to trial; that the order of the trials was chronologically based upon when the complaints were filed and was known to Clavel-Hernandez when he entered his pleas the morning scheduled for trial; and that the selection of the jury pool had been random, with no systemic or intentional discrimination.

The circuit court held a sentencing hearing at which the parties addressed the presentence investigation report and provided recommendations in accordance with the plea agreement. Two victims gave statements, and Clavel-Hernandez exercised his right of allocution with standby assistance from an interpreter. After hearing from the parties, the court discussed the proper sentencing factors, including the gravity of the offenses, the need to protect the public, and the character of the offender. The court sentenced Clavel-Hernandez to concurrent terms of five years' initial confinement and five years' extended supervision on the second-degree sexual assault count; nine months' jail on the fourth-degree sexual assault count; five years' initial confinement and five years' extended supervision on the second-degree sexual assault of a child count; and twenty years' initial confinement and ten years' extended supervision on the count of repeated sexual assault of a child.

We agree with counsel's description, analysis and conclusion that any challenge to the pleas or sentences would lack arguable merit. Our independent review of the record discloses no

other potential issues for appeal.<sup>2</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 judgments of conviction will be summarily affirmed. See WIS. STAT. RULE 809.21.

Upon the foregoing,

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

IT IS FURTHER ORDERED that Attorney Carl Chesshir is relieved of any further representation of Yoalmo Clavel-Hernandez in these matters 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*

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<sup>2</sup> We note that Clavel-Hernandez's no-contest pleas forfeited the right to raise other 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.