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**DISTRICT II**

June 1, 2022

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Joshua K. Jacobs  
W. 12429 Sunny Knoll Road  
Brandon, WI 53919

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

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2020AP190-CRNM      State of Wisconsin v. Joshua K. Jacobs (L.C. #2017CF52)

Before Gundrum, P.J., Neubauer and Grogan, 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).**

Joshua K. Jacobs appeals from a judgment convicting him of second-degree sexual assault of a child under sixteen years old contrary to WIS. STAT. § 948.02(2) (2001-02). His appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2019-20)<sup>1</sup> and

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

*Anders v. California*, 386 U.S. 738, 744 (1967). Jacobs received a copy of the report, was advised of his right to file a response, and has not done so. Upon consideration of the report and an independent review of the record, we conclude that the judgment may be summarily affirmed because there are no arguably meritorious issues for appeal. *See* WIS. STAT. RULE 809.21.

Jacobs was charged with two counts of repeated acts of sexual assault against a child under the age of sixteen, contrary to WIS. STAT. § 948.025(1) (2001-02). The two counts represented two different young females, each of whom, according to the complaint, was sexually assaulted by Jacobs at least three times during the charging period of “on or about 2002 to 2007.” *See* § 948.025(1) (2001-02) (“Whoever commits 3 or more violations under [WIS. STAT. §] 948.02(1) or (2) within a specified period of time involving the same child is guilty of a Class B felony.”).

As part of a negotiated settlement, the State filed a second amended information charging Jacobs with two counts of second-degree sexual assault against a child under sixteen years old, under WIS. STAT. § 948.02(2) (2001-02), a Class BC felony for acts committed before February 1, 2003. The second amended information narrowed the charging period to “on or about 2002” so that Jacobs would be subject to the lower penalty applicable to offenses committed prior to February 1, 2003.<sup>2</sup> At the plea hearing, the circuit court stated the reasons for

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<sup>2</sup> Prior to February 1, 2003, a violation of WIS. STAT. § 948.02(2) was classified as a BC felony carrying a maximum penalty of \$10,000 and thirty years’ imprisonment. For violations occurring on or after February 1, 2003, § 948.02(2) was reclassified as a C felony with an increased maximum penalty of \$100,000 and forty years’ imprisonment. *See* 2001 Wisconsin Act 109. Act 109 abolished the “BC” classification altogether.

the amendments on the record and ascertained Jacobs's understanding of the amendments, along with his consent to use a charging date prior to February 1, 2003.

Jacobs pled no contest to count one, and count two was dismissed but read in. The parties agreed to recommend a withheld sentence and five years of probation. Both were free to argue the conditions of Jacobs's probation, including conditional jail time. The circuit court ordered a PSI. At sentencing, the court withheld sentence and ordered a five-year term of probation with various conditions, including twelve months of conditional jail time. This no-merit appeal follows.

Appointed appellate counsel's no-merit report addresses (1) whether Jacobs's no contest plea was knowingly, voluntarily, and intelligently entered, and if there exists a sufficient factual basis for the charge of conviction; (2) whether the circuit court properly exercised its discretion in imposing sentence; and (3) whether Jacobs was deprived of his constitutional right to the effective assistance of trial counsel. This court is satisfied that the no-merit report correctly analyzes the issues it raises as without merit, and this court will not discuss them further.

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

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

IT IS FURTHER ORDERED that Attorney Mark A. Schoenfeldt is relieved from further representing Joshua K. Jacobs in this appeal. *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*