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DISTRICT I

July 6, 2022

To:

Hon. Brittany C. Grayson
Circuit Court Judge
Electronic Notice

Karen Lueschow
Electronic Notice

Tammy Kruczynski
Juvenile Clerk
Milwaukee County Courthouse
Electronic Notice

Sara J.S. Waldschmidt-DeSmet
Electronic Notice

D. L. H.

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

2021AP1465-NM State of Wisconsin v. D.L.H. (L.C. # 2020JV357)

Before Dugan, J.

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).

D.H. appeals an order finding him delinquent for having committed the crime of first-degree sexual assault.¹ D.H.'s appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32, and *Anders v. California*, 386 U.S. 738 (1967). D.H. received a copy of the report and was advised of his right to file a response, but he has not done so. After considering the report and conducting an independent review of the record as mandated by *Anders*, we conclude

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(e) (2019-20). All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

that there is no arguable merit to any issue that could be raised on appeal. Therefore, we summarily affirm. *See* WIS. STAT. RULE 809.21.

A delinquency petition was filed alleging that D.H. committed first-degree sexual assault of a child under the age of sixteen by threat of force or violence. After a trial to the court that spanned three days, the circuit court found that D.H. committed the crime alleged. At the disposition hearing, the circuit court ordered D.H. to remain under court supervision for nine months with placement in his home.

The no-merit report addresses the potential issues of whether there was sufficient evidence to support the circuit court's finding that D.H. committed first-degree sexual assault. We will not reverse the circuit court's verdict when the circuit court is acting as the finder of fact "unless the evidence, viewed most favorably to the [S]tate and the conviction, is so lacking in probative value and force that no trier of fact, acting reasonably, could have found guilt beyond a reasonable doubt." *State v. Poellinger*, 153 Wis. 2d 493, 507, 451 N.W.2d 752 (1990).

In its thorough oral decision, the circuit court outlined the testimony of the witnesses and explained how it viewed their credibility. The circuit court concluded that the victim was more credible than D.H., who denied that he committed the sexual assault. The testimony of the witnesses provides sufficient evidence to support the circuit court's conclusion. There would be no arguable merit to an appellate challenge to the sufficiency of the evidence.

The no-merit report next addresses whether there would be arguable merit to an appellate challenge to the disposition. The circuit court explained that its goals were to protect the community, hold D.H. responsible for his actions, and ensure that D.H. received the care and treatment he needed. The circuit court ordered D.H. to remain under the supervision of the

Department of Youth and Family Services (DYFS) for an additional nine months with placement in his home. The circuit court noted that D.H. had no new referrals since the case began ten months earlier and that he had complied with all court orders and attended all hearings. The circuit court adopted the placement plan suggested by DYFS and ordered D.H. to attend the Alternatives to Sexual Assault Program and write a letter of responsibility to the victim. Because the circuit court's decision was based on the facts of this case and the appropriate legal standards, and because the circuit court's thorough oral decision shows that it properly exercised its discretion, there would be no arguable merit to a challenge to the disposition.

Our independent review of the record discloses no other potential issues for appeal. Accordingly, we accept the no-merit report, affirm the delinquency order, and discharge appellate counsel of the obligation to represent D.H. further in this appeal.

Upon the foregoing reasons,

IT IS ORDERED that the order is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Karen Lueschow is relieved from further representing D.H. 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