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WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688
Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT II

June 30, 2022

To:

Hon. Jodi L. Meier
Circuit Court Judge
Electronic Notice

Rebecca Matoska-Mentink
Clerk of Circuit Court
Kenosha County Courthouse
Electronic Notice

Winn S. Collins
Electronic Notice

Marcella De Peters
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Michael D. Graveley
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Jeffrey J. Meitzen
2008 62nd St.
Kenosha, WI 53143

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

2019AP2194-CRNM State of Wisconsin v. Jeffrey J. Meitzen (L.C. #2017CF724)

Before Neubauer, Grogan and Kornblum, 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).

Jeffrey J. Meitzen appeals from a judgment convicting him of child enticement contrary to WIS. STAT. § 948.07(3) (2015-16).¹ Meitzen's appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2019-20)² and *Anders v. California*, 386 U.S. 738 (1967). Meitzen received a copy of the report and was advised of his right to file a response. He has not

¹ The jury acquitted Meitzen of third-degree sexual assault.

² All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

done so. Upon consideration of the report and an independent review of the record as mandated by *Anders* and RULE 809.32, we summarily affirm the judgment because there are no issues that would have arguable merit for appeal. WIS. STAT. RULE 809.21.

After a jury trial, the circuit court sentenced Meitzen to a nine-year term (two years of initial confinement and seven years of extended supervision). Meitzen received sentence credit and was required to register as a sex offender.

Counsel's no-merit report addresses the following possible appellate issues: (1) sufficiency of the evidence; and (2) whether the circuit court misused its sentencing discretion. After reviewing the record, we conclude that counsel's no-merit report properly analyzes these issues and correctly determines that these issues lack arguable merit.

To the extent the jury had before it conflicting evidence as to whether the alleged offense occurred as the State claimed, it was the jury's function to weigh the evidence, draw reasonable inferences, and resolve conflicts in the testimony. *See State v. Poellinger*, 153 Wis. 2d 493, 506, 451 N.W.2d 752 (1990). The record reveals that for the count of conviction, at least one witness gave testimony to support each requisite element. The evidence, "viewed most favorably to the state and the conviction, is [not] so insufficient in probative value and force that it can be said as a matter of law that no trier of fact, acting reasonably, could have found guilt beyond a reasonable doubt." *Id.* at 501. The standard is the same whether the evidence is direct or circumstantial. *Id.* We conclude that no arguable merit could arise from a challenge to the sufficiency of the evidence.

We agree with appellate counsel that the circuit court engaged in a proper exercise of sentencing discretion after considering various sentencing factors. *See State v. Gallion*, 2004 WI

42, ¶76, 270 Wis. 2d 535, 678 N.W.2d 197 (we review the sentence for a misuse of discretion); *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76 (sentencing objectives and factors discussed).

In addition to the issues discussed above, we have independently reviewed the record.³ Our independent review of the record did not disclose any arguably meritorious issue for appeal. Because we conclude that there would be no arguable merit to any issue that could be raised on appeal, we accept the no-merit report, affirm the judgment of conviction, and relieve Attorney Marcella De Peters of further representation of Meitzen in this appeal.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Marcella De Peters is relieved from further representing Jeffrey J. Meitzen 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

³ The no-merit report does not address evidentiary rulings, jury instructions, voir dire, or a post-trial motion. A no-merit report is supposed to “identify anything in the record that might arguably support the appeal and discuss the reasons why each identified issue lacks merit.” WIS. STAT. RULE 809.32(1)(a). Counsel was obligated to address all possible appellate issues and state why the issues do not have arguable merit. Future no-merit reports may be rejected if they do not fulfill the purpose of RULE 809.32.