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DISTRICT III

October 25, 2022

To:

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Brian M. Nelis 314310
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You are hereby notified that the Court has entered the following opinion and order:

2021AP186-CRNM State of Wisconsin v. Brian M. Nelis (L. C. No. 2018CF185)

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).

Counsel for Brian Nelis has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2019-20),[1] concluding that no grounds exist to challenge Nelis's conviction for first-degree intentional homicide by use of a dangerous weapon, as a party to the crime. Nelis has filed a response to the no-merit report raising multiple challenges to his conviction, and counsel has filed a supplemental no-merit report. Upon our independent review of the record as mandated by ***Anders v. California***, 386 U.S. 738 (1967), we conclude that there is no arguable merit to any

[1] All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

issue that could be raised on appeal. Therefore, we summarily affirm the judgment of conviction. *See* WIS. STAT. RULE 809.21.

Nelis and Michael Sweet were each charged with first-degree intentional homicide while armed with a dangerous weapon, as a party to the crime, in connection with the death of Shane Cadotte. Nelis and Sweet both moved to sever their cases for trial, but the circuit court denied their motions. Nelis and Sweet were therefore tried together during a single, three-day jury trial.

At trial, April Blaker testified that she was with Cadotte from about 5:00 or 6:00 p.m. on September 22, 2017, until midnight on September 23. Blaker testified that she and Cadotte were not in a romantic relationship, but she thought that Cadotte was interested in her. At around midnight, Blaker and Cadotte arrived at Blaker's residence, but Cadotte left without going inside the house. After Cadotte left, Sweet came into Blaker's house and began yelling at her, wanting to know "who was outside." Sweet was "in [Blaker's] face" and backed her into a corner in the bathroom, at which point Blaker pushed Sweet into the bathtub. Nelis then entered Blaker's residence and grabbed Sweet. While Nelis was taking Sweet out of the house, Sweet said, "[T]hat fucker is dead."

Blaker testified that Tanya Stone was present at Blaker's house when these events occurred. Stone testified that on the night in question, she heard Sweet angrily asking Blaker who was outside, and she then saw Nelis come into Blaker's residence. Stone testified that while Nelis was taking Sweet out of the house, Sweet stated, "That little fucker is dead." Blaker and Stone testified that Nelis returned to Blaker's residence at around 3:00 or 4:00 a.m. on

September 23, 2017, and that Nelis's feet and the bottom of his pants were wet. In addition, Blaker testified that she saw Sweet two days later and had sex with him.

Ronald Wilson testified at trial that he was with a woman named Delaney Lava[2] on the afternoon of September 22, 2017, and was trying to help her obtain methamphetamine. Wilson testified that he arranged for Lava to purchase methamphetamine from Cadotte, and that he and Lava met up with Cadotte "on the old railroad tracks" near Miller Road on the Bad River Reservation "later in the evening." Wilson drove Lava's vehicle, a gold Toyota Highlander SUV that she had borrowed from a friend, to that location. When they met Cadotte at the railroad tracks, Wilson gave Cadotte sixty dollars of Lava's money, but Cadotte did not provide any drugs at that point.[3]

Instead, Wilson and Lava arranged to meet Cadotte a second time across the road from a casino. When they arrived at that location, Wilson saw Nelis and Sweet in a black Cadillac. Wilson spoke to Nelis and then saw Cadotte leaning against a car. Sweet approached Cadotte, and Wilson heard Sweet ask Cadotte, "Are you scared?" Wilson observed that Sweet had a hunting knife in a sheath on his belt. After the exchange between Sweet and Cadotte, Cadotte got into the back seat of Lava's SUV, and Wilson drove the vehicle away.

[2] Lava's name is spelled in different ways throughout the appellate record. We use the spelling that is used in the trial transcript.

[3] Blaker confirmed during her testimony that she and Cadotte met up with Wilson on the evening of September 22, 2017, because Cadotte was "doing a drug deal" with Wilson. Blaker testified that she and Cadotte met Wilson "[o]n Miller back road" at about 6:30 that evening. Blaker also testified that there was "some girl" she did not know in Wilson's vehicle.

Wilson started driving toward Ashland on Highway 2, but he turned off onto Highway A because he thought there would be less traffic. At that point, it was past midnight on September 23, 2017. While driving, Wilson saw lights in his rearview mirror and turned onto Bear Trap Road because he "thought it was the cops." Wilson then turned into a driveway so that the vehicle following "couldn't see where we went." Wilson was familiar with the driveway and knew that it led to a property where a game warden used to live. The black Cadillac with Nelis and Sweet inside pulled into the driveway behind Wilson. Wilson then got out of the SUV and spoke to Nelis, and while they were speaking, Sweet opened the back door of the SUV and started punching Cadotte. Sweet then dragged Cadotte out of the SUV and toward the back of the vehicle, where he continued punching Cadotte. Nelis went to the back of the vehicle, and Wilson saw Nelis kick Cadotte.

Wilson testified that after he saw Nelis kick Cadotte, Wilson jumped back into the SUV and locked the doors. Nelis ran over to Wilson's window and asked, "Where's the bag?"—which Wilson understood to mean methamphetamine. Wilson responded, "What bag?" and Nelis then walked away. At that point, Wilson and Lava drove back to Wilson's house without Cadotte, and Lava left soon thereafter. Surveillance footage showed that Lava was at a gas station in a gold SUV at around 3:00 a.m. on September 23, 2017.

Wilson identified Exhibit 44 as a photograph of the black Cadillac that he had seen Nelis and Sweet in on September 22 and 23, 2017. The photograph depicts a distinctive, older-model black Cadillac. Karlene White testified that she had inherited the black Cadillac shown in Exhibit 44 from her father. Evidence showed that White reported the Cadillac stolen on September 25, 2017.

The jury also heard that Cadotte's body was discovered at the Bear Trap Road property on September 28, 2017. A forensic pathologist testified that he performed an autopsy on Cadotte's body on September 29. During the autopsy, the pathologist observed "a number of traumatic injuries, both sharp force trauma, and blunt force trauma." The pathologist concluded that Cadotte had died as a result of "homicidal violence, including multiple stab and incised wounds of the head, neck, and extremities, and blunt force trauma of the head[,] neck and extremities." The pathologist was not able to determine Cadotte's date of death with specificity and could state only that his death had occurred less than two weeks but "no less than several days" before the autopsy.

The State also presented evidence that on September 27, 2017, law enforcement located the black Cadillac depicted in Exhibit 44, which had been abandoned on the Bad River Reservation. A latent fingerprint examiner from the State Crime Laboratory testified that she found fingerprints from both Nelis and Sweet inside the Cadillac. The examiner also testified that a reddish-brown stain on the front passenger seat of the Cadillac tested positive for blood, and she took a swab from that stain and submitted it for DNA testing. A DNA analyst from the State Crime Laboratory testified that she developed a DNA profile from the swab, which matched Cadotte's DNA.

The State also introduced evidence showing that the ceiling of the Cadillac was made of an orange foam material and that three clumps of orange foam were found in the back seat of the gold Toyota Highlander SUV that was in Lava's possession on the night in question. A trace evidence analyst from the State Crime Laboratory testified that he tested samples of the foam taken from both vehicles and found them to be consistent in every way.

The Ashland County sheriff testified that he found a knife in a burn barrel at the Bear Trap Road property on October 3, 2017. The DNA analyst testified that the knife was not tested for DNA because law enforcement was not certain that the knife was connected to the crime and because the knife was not suitable for DNA analysis due to the conditions in the burn barrel where it was found. The latent fingerprint examiner testified that she did not find any fingerprints on the knife and that the knife did not test positive for blood.

The jury ultimately found both Nelis and Sweet guilty of first-degree intentional homicide by use of a dangerous weapon, as a party to the crime. The circuit court sentenced Nelis to life in prison, without eligibility for release to extended supervision.

The no-merit report addresses: whether Nelis was denied a fair trial because venue was not changed from Ashland County; whether Nelis is entitled to a new trial due to errors in the circuit court's evidentiary rulings; whether Nelis is entitled to relief based on the court's denial of Sweet's motion for a mistrial; whether the evidence was sufficient to support the jury's verdict; and whether the court erroneously exercised its sentencing discretion. In addition, the supplemental no-merit report addresses whether the court erred by denying Nelis's pretrial motion for severance. We agree with counsel's description, analysis, and conclusion that these potential issues lack arguable merit, and we therefore do not address them further. We also conclude, based upon our independent review of the record, that there are no issues of arguable merit regarding the court's rulings on other pretrial motions, the parties' opening statements and closing arguments, the jury instructions, and the court's responses to questions posed by the jury during its deliberations.

In his response to the no-merit report, Nelis asserts that his trial attorneys were constitutionally ineffective in numerous respects. We conclude that none of Nelis's arguments have arguable merit.

First, Nelis contends that his attorneys should have filed a motion under WIS. STAT. § 756.03(3)[4] asking the clerk of court "to vet the prospective jury pool at the courthouse, their homes, or alternatively include a questionnaire with the summons for jury duty inquiring as to any business, social, marriage or blood relations to either Cadotte, Nelis or Sweet; well in advance of the trial date."[5] Nelis asserts that such a motion would have "tentatively neutralized prospective prejudice while ensuring a diverse cross-section of ethnic groups as well as weeded out blood, marriage and social relations."

This claim lacks arguable merit. Nelis does not explain why requiring the clerk of court to inquire into grounds for deferral and excuse from jury service prior to trial would have ensured a more ethnically diverse jury pool, and we can perceive no basis for his unsupported assertion in that regard. Moreover, the record shows that the circuit court was able to "weed[] out blood, marriage and social relations" during the in-court jury selection process on the first day of trial, and Nelis does not explain why the circumstances of this case required the clerk of court to do so prior to trial. On the record before us, there is no basis to conclude that Nelis's

[4] WISCONSIN STAT. § 756.03(1) permits a circuit court to excuse a person from jury service if the court determines that the person cannot fulfill the responsibilities of a juror. Section 756.03(2), in turn, allows a court to defer a person's jury service to a later date based on "undue hardship, extreme inconvenience or serious obstruction or delay in the fair and impartial administration of justice." Section 756.03(3) permits "[t]he judge responsible for administering the jury system in the circuit court" to "authorize the clerk of circuit court to grant excuses or deferrals under this section."

[5] When quoting from Nelis's response to the no-merit report, we omit unnecessary capitalization.

trial attorneys performed deficiently by failing to file a motion requiring the clerk of court to vet the prospective jury pool prior to trial, nor are there any grounds to conclude that Nelis was prejudiced by his trial attorneys' failure to do so. *See* ***Strickland v. Washington***, 466 U.S. 668, 687 (1984) (holding that a defendant claiming ineffective assistance of counsel must show both that counsel's performance was deficient and that the deficient performance prejudiced the defense).

Relatedly, Nelis argues that his trial attorneys should have objected to the circuit court improperly "merging voir dire under [WIS. STAT. §] 805.08(1) with deferral and excuse under [WIS. STAT. §] 756.03." In support of this claim, Nelis cites ***State v. Gribble***, 2001 WI App 227, ¶¶16, 18, 248 Wis. 2d 409, 636 N.W.2d 488, which held that a defendant does not have a constitutional or statutory right to be present with counsel when the court questions prospective jurors "to determine whether to excuse or defer service of any under § 756.03." The ***Gribble*** court reasoned that such questioning is separate from "voir dire," which is instead directed at "eliciting information on prospective jurors' backgrounds, or any other information that might reveal bias." ***Gribble***, 248 Wis. 2d 409, ¶¶16, 18. Nothing in ***Gribble***, however, prevents a circuit court from inquiring into deferral and excuse at the same time that the court conducts voir dire. As such, there would have been no grounds for Nelis's trial attorneys to object to the court "merging" voir dire with deferral and excuse. *See* ***State v. Berggren***, 2009 WI App 82, ¶21, 320 Wis. 2d 209, 769 N.W.2d 110 (an attorney is not ineffective by failing to make a motion that would have been denied).

Nelis also argues that his trial attorneys were ineffective by failing to raise a ***Batson***[6] challenge when the State used a peremptory strike to remove Juror P.D. from the jury. Nelis is Native American, and he asserts that Juror P.D. was the only Native American in the jury pool. Although a prosecutor has a "general right to exercise peremptory strikes for any reason related to the prosecutor's view of the case outcome," the Equal Protection Clause prohibits a prosecutor from striking a potential juror solely on account of his or her race. ***State v. Lamon***, 2003 WI 78, ¶25, 262 Wis. 2d 747, 664 N.W.2d 607.

Here, any challenge to the State's peremptory strike of Juror P.D. would have failed, as the facts do not "raise an inference that the prosecutor used peremptory strikes to exclude venirepersons on account of their race." *See* ***id.***, ¶28. In addition, there were multiple race-neutral reasons for the prosecutor to use a peremptory strike on Juror P.D. *See* ***id.***, ¶¶29-30. In response to questions from the circuit court and counsel, Juror P.D. indicated that he and Nelis are cousins, but not first cousins; that he previously had business dealings with Nelis's attorney; and that he had been accused of a crime the prior year. Any of these factors would have provided valid grounds for the State to believe that Juror P.D. might be biased in favor of Nelis and against the State, despite Juror P.D.'s representations to the contrary. As such, there would be no arguable merit to a claim that Nelis's trial attorneys were ineffective by failing to raise a ***Batson*** challenge, as any such challenge would have failed. *See* ***Berggren***, 320 Wis. 2d 209, ¶21.

[6] *See* ***Batson v. Kentucky***, 476 U.S. 79 (1986).

Nelis next argues that his trial attorneys were ineffective by failing to object to the circuit court's "abuse of discretion" regarding Juror J.S. In response to a question from the prosecutor regarding whether the potential jurors were familiar with any of the State's witnesses, Juror J.S. responded, "My grandchild is a relative, so we had quite frequent contact with the deceased"—apparently referring to Cadotte. The court then inquired, "And would that cause you an inability to make a decision based on the evidence?" Juror J.S. responded, "Yes, it would." At that point, the court immediately removed Juror J.S. for cause, without any further discussion or questioning.

Nelis asserts that Juror J.S. should have been removed for cause immediately after she disclosed that she had a "blood relationship" with Cadotte. Juror J.S. did not, however, disclose that *she* had a blood relationship with Cadotte; she stated that her *grandchild* was related to Cadotte. It is entirely possible that Juror J.S.'s grandchild was related to Cadotte without Juror J.S. also being related to him. Moreover, although Nelis suggests that the circuit court's additional question to Juror J.S.—i.e., "And would that cause you an inability to make a decision based on the evidence?"—prejudiced the jury pool, he does not explain why he believes that to be the case. Multiple jurors were asked essentially the same question throughout the jury selection process; those who responded in the affirmative were removed for cause, and those who responded in the negative were not. There is no basis to conclude that the court's routine question to Juror J.S. prejudiced the jury pool, or that Nelis's trial attorneys were ineffective by failing to object.[7]

[7] Nelis also contends that the circuit court's question to Juror J.S. constituted structural error. Because the court's question was not improper, we reject Nelis's structural error argument.

Nelis also asserts that his trial attorneys were ineffective by failing to object when the prosecutor referred to Cadotte as the "victim" during jury selection and used the term "homicide" to describe Cadotte's death. Under the circumstances of this case, there would be no arguable merit to a claim that Nelis was prejudiced by the prosecutor's use of those terms. As noted in the supplemental no-merit report, the evidence at trial clearly showed that Cadotte was the victim of a homicide. Neither Sweet nor Nelis argued at trial that Cadotte had died as a result of some other cause—for instance, suicide or an accident. As appellate counsel aptly notes, this case is not like a sexual assault case in which the defendant claims that the complaining witness is not a "victim" because the sexual contact was consensual and, as a result, no crime actually occurred. Here, it was clear that Cadotte was the victim of a homicide, and the disputed issue at trial was whether Sweet and Nelis were the perpetrators of that homicide. On these facts, Nelis's trial attorneys were not ineffective by failing to object to the prosecutor's use of the terms "victim" and "homicide" during jury selection.

Nelis next argues that his trial attorneys were ineffective by failing to object to the State's knowing presentation of false or incredible evidence at trial, in violation of Nelis's constitutional right to due process. Nelis has not shown, however, that any specific evidence presented by the State was false or that the State knew that such evidence was false. At most, Nelis points out conflicts in the evidence. Such conflicts do not demonstrate that the State's evidence was false or incredible.

Nelis also argues that his trial attorneys were ineffective by failing to present an alibi defense. Prior to trial, Nelis filed a notice of alibi, which identified seven witnesses who would allegedly testify regarding Nelis's whereabouts at various times between 6:00 p.m. and 2:00 a.m. on the night in question. Nelis's attorneys did not, however, present an alibi defense at trial.

Nevertheless, we agree with appellate counsel that this failure did not constitute ineffective assistance because none of the identified witnesses "made sufficient observations to be useful at trial for Nelis."

In particular, we note that Nelis contends he was sleeping in his truck at Waverly Beach on the night in question, and that an individual named Josh Bender woke him up at about 2:00 a.m. and invited him to go swimming with three other unknown individuals. Although Bender's testimony would have provided Nelis with an alibi for 2:00 a.m., the State's evidence at trial suggested that Cadotte's murder took place sometime between midnight and 3:00 a.m. Given that three-hour time frame, we conclude it is not reasonably probable that the jury would have had a reasonable doubt about Nelis's guilt had his trial attorneys called Bender to testify about Nelis's whereabouts at 2:00 a.m. *See* ***Strickland***, 466 U.S. at 694 (explaining that to demonstrate prejudice, a defendant must show there is "a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different").

Next, Nelis complains that Wilson's "probation status" was not introduced at trial. Nelis suggests that because Wilson was on probation, he had an "enhanced" motive to testify falsely. Nelis, however, does not point to any evidence that Wilson was offered any concessions in exchange for his testimony.[8] On the record before us, it is not reasonably probable that the result of Nelis's trial would have been different had the jury been informed that Wilson was on probation.

[8] Nelis asserts there was a "tacit agreement" not to prosecute Wilson for his role in Cadotte's murder, not to prosecute Wilson for drug transactions, and not to revoke Wilson's probation. He cites no evidence, however, in support of his claim that such an agreement existed.

Nelis further asserts that his trial attorneys were ineffective by failing to introduce evidence at trial regarding "DOJ [Department of Justice] negotiations with [Lava]." Nelis has submitted an email showing that, prior to trial, his attorneys received a recording of a phone call that Lava had made from jail, in which Lava stated "that DOJ offered to relocate her and her daughter but she doesn't trust DOJ. She believes they may try to kill her for some reason." Nelis does not explain why this information would have been relevant at trial. Lava did not testify, and, as a result, any concessions that the DOJ may or may not have offered her in exchange for her testimony would not have been relevant. Moreover, the fact that Lava told an unnamed individual that the DOJ had offered to relocate her does not mean that the DOJ actually made that offer.

Nelis next argues that his trial attorneys were ineffective by failing to present evidence of "alternative suspects." Much of the evidence that Nelis cites in support of this argument, however, is too vague to have been useful at trial. For instance, Nelis notes that one woman told police she "heard there were approximately 6 individuals who had beaten [Cadotte] and that was how he died." Even assuming that such evidence would have been admissible at trial, it is not reasonably probable that a vague assertion about unnamed individuals being involved in Cadotte's death would have caused the jury to a have a reasonable doubt about Nelis's guilt.

To the extent Nelis contends that his trial attorneys were ineffective by failing to argue that Wilson was responsible for Cadotte's death, we note that Nelis's attorneys did make that argument at trial. In particular, Nelis's attorneys introduced evidence that an individual named Matthew Phillips had received a call on or around September 23, 2017, asking him to "jump" a vehicle at an address on Government Road. Phillips testified that he went to that location, and there were two individuals standing outside of an older-model black Cadillac, one of whom was

Wilson. In his closing argument, Nelis's attorney argued Phillips' testimony suggested that Wilson was involved in Cadotte's murder. Counsel further argued that while the evidence suggested that Wilson and Sweet were both "involved in this," Nelis had no motive to kill Cadotte. On this record, any argument that Nelis's trial attorneys were ineffective by failing to argue that Wilson was responsible for Cadotte's death would lack arguable merit.[9]

Nelis also asserts that his trial attorneys were ineffective by failing to object to the State's presentation of "false and misleading forensic testimony." First, Nelis emphasizes that the forensic pathologist could not determine Cadotte's date of death with specificity. This deficiency did not render the pathologist's testimony "false" or "misleading," however. The pathologist conceded that he could not provide a precise date of death and explained the factors that prevented him from doing so—namely, that Cadotte's body "was reportedly recovered outdoors, in sort of an open environment, with access to animal gradation, insect gradation, and the weather, so, as a result, he was in an advanced state of putrefaction." Moreover, the uncertainty regarding Cadotte's date of death tended to benefit Nelis, as the pathologist was unable to confirm that Cadotte had died on the night of September 22-23, 2017, as argued by the State. Under these circumstances, there would be no arguable merit to a claim that Nelis's trial

[9] Nelis cites statements that Lava made in an interview with law enforcement, which seem to suggest that Lava believed Wilson was involved in Cadotte's death. During that interview, however, Lava also made statements implicating Nelis in the crime. As such, it is not reasonably probable that the result of Nelis's trial would have been different had this evidence been introduced at trial. Stated differently, it is not reasonably probable that the jury would have had a reasonable doubt about Nelis's guilt had Nelis's attorneys presented evidence suggesting that both Nelis and Wilson were involved in Cadotte's death.

Nelis also argues that his trial attorneys should have elicited a "rational explanation" from a law enforcement witness "as to why Nelis and Sweet were chosen as the 'only' suspects" that law enforcement "actively sought." Given the evidence presented by the State, Nelis has not shown that there is a reasonable probability that this additional inquiry would have changed the result of his trial.

attorneys were ineffective by failing to object to the pathologist's testimony regarding Cadotte's date of death.[10]

Nelis also argues that the State's evidence regarding the knife found in the burn barrel was false or misleading because there was no evidence connecting the knife to Cadotte's death. The lack of such evidence was repeatedly emphasized at trial, however. As noted above, the DNA analyst testified that the knife was not tested for DNA because law enforcement was not certain the knife was connected to the crime and because the knife was not suitable for DNA analysis. The latent fingerprint examiner testified that she did not find any fingerprints on the knife and that the knife did not test positive for blood. Sweet's attorney noted during his closing argument that the pathologist was never asked to opine whether the knife from the burn barrel could have been the source of Cadotte's stab wounds. Moreover, the prosecutor conceded during his rebuttal closing argument that he did not know whether the knife from the burn barrel was used to stab Cadotte, and, in fact, he was "skeptical about whether it [was] actually the knife" because it was found "buried under a bunch [of] refuse" and it looked like it had "been in there for a while." The State's evidence regarding the knife was neither false nor misleading, and the jury was well aware of the lack of evidence connecting the knife to Cadotte's death.

Finally, Nelis suggests that his trial attorneys were ineffective because they "dissuaded him from testifying on his own behalf." We note, however, that the circuit court conducted a

[10] Nelis cites two documents contained in his appendix, one of which appears to be a laboratory report regarding blood taken during Cadotte's autopsy and the other of which is entitled "Toxicology Requisition Form." Both of these documents list Cadotte's date of death as September 28, 2017. We reject Nelis's suggestion that these documents show that the pathologist's trial testimony regarding the date of death was false or misleading. In context, the only reasonable reading of these documents is that they listed the date Cadotte's body was found as his date of his death because the pathologist had not yet determined a date of death.

colloquy with Nelis at trial regarding his decision not to testify. During the colloquy, Nelis confirmed that no one had made any threats or promises to induce him not to testify, and he further confirmed that he had made the decision not to testify "himself," in consultation with his attorneys. Furthermore, the mere fact that Nelis's attorneys "dissuaded" him from testifying does not support a claim that they were constitutionally ineffective. Nelis does not claim he was misadvised about the nature of his right to testify or that his waiver of that right was the result of undue pressure from his attorneys. *Cf.* ***State v. Weed***, 2003 WI 85, ¶¶36, 45-46, 263 Wis. 2d 434, 666 N.W.2d 485 (defendant claimed she did not understand she had the absolute right to testify at trial); ***State v. Flynn***, 190 Wis. 2d 31, 49-50, 527 N.W.2d 343 (Ct. App. 1994) (defendant claimed that waiver of his right to testify was based on defense counsel's threats to withdraw from representation). On the record before us, there would be no arguable merit to a claim that Nelis's trial attorneys were constitutionally ineffective by dissuading him from testifying at trial.

Our independent review of the record discloses no other potential issues for appeal.

Therefore,

IT IS ORDERED that the judgment is summarily affirmed. WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Leonard D. Kachinsky is relieved of his obligation to further represent Brian Nelis in this matter. *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