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**DISTRICT IV**

October 27, 2022

To:

Hon. Daniel G. Wood  
Circuit Court Judge  
Electronic Notice

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Lori Banovec  
Clerk of Circuit Court  
Adams County Courthouse  
Electronic Notice

Patricia Sommer  
Electronic Notice

Tania M. Bonnett  
Electronic Notice

Randall M. Woodard 699017  
Wisconsin Resource Center  
P.O. Box 220  
Winnebago, WI 54985-0220

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

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2021AP866-CRNM      State of Wisconsin v. Randall M. Woodard (L.C. # 2015CF8)

Before Blanchard, P.J., Graham, and Nashold, 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).**

Attorney Patricia Sommer, appointed counsel for Randall Woodard, has filed a no-merit report seeking to withdraw as appellate counsel pursuant to WIS. STAT. RULE 809.32 (2019-20)<sup>1</sup> and *Anders v. California*, 386 U.S. 738 (1967). Woodard was sent a copy of the report and has not filed a response. We conclude that this case is appropriate for summary disposition. See WIS. STAT. RULE 809.21. Upon consideration of the no-merit report and an independent review

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

of the record, we conclude that there is no arguable merit to any issue that could be raised on appeal.

Woodard was charged with ten counts of possession of child pornography. Woodard pled no contest to one count of possession of child pornography pursuant to a negotiated plea agreement. Pursuant to the plea agreement, all other counts were dismissed and read in. The parties agreed to a joint sentencing recommendation of no more than three years of initial confinement, plus lifetime sex offender registration. The parties were free to argue as to the length and terms of extended supervision. The court ultimately sentenced Woodard to three years of initial confinement followed by four years of extended supervision. The court also ordered that Woodard would be subject to sex offender reporting requirements for the remainder of his life.

The no-merit report addresses whether there would be any arguable merit to challenging the circuit court's determination that Woodard was competent for purposes of these criminal proceedings. "No person who lacks substantial mental capacity to understand the proceedings or assist in his or her defense may be tried, convicted, or sentenced for the commission of an offense so long as the incapacity endures." *State v. Byrge*, 2000 WI 101, ¶¶27-28, 237 Wis. 2d 197, 614 N.W.2d 477. To determine competency, the court considers a defendant's mental capacity to understand and assist at the time of the proceedings. *Id.*, ¶31. A circuit court's competency determination should be reversed only when it is clearly erroneous. *Id.*, ¶45.

In this case, the circuit court ordered an examination of Woodard to determine if he was competent for purposes of these criminal proceedings. A psychologist conducted an examination of Woodard and filed a report concluding that Woodard was not competent to proceed, but

would likely regain competency were he to receive treatment and care. Following a competency hearing, the circuit court ordered that Woodard be committed to the Department of Health Services (DHS) for treatment. After approximately two weeks of commitment, a DHS psychologist evaluated Woodard and filed a report with the court concluding that “Woodard has substantial mental capacity to understand the proceedings and assist in his own defense” (underlining omitted). The circuit court held an additional competency hearing. At the hearing, no party objected to the report’s findings and no evidence was presented to undermine the findings. The court resumed the criminal proceedings pursuant to WIS. STAT. § 971.14(4)(c). There is nothing in the no-merit report or the record that would support an arguably meritorious challenge to the circuit court’s competency determination.

The no-merit report also discusses whether Woodard’s plea was entered knowingly, voluntarily, and intelligently. Our independent review of the record reveals that the plea colloquy sufficiently complied with the requirements of *State v. Bangert*, 131 Wis. 2d 246, 255-73, 389 N.W.2d 12 (1986), and WIS. STAT. § 971.08 relating to the nature of the charge, Woodard’s understanding of the proceedings and the voluntariness of the plea decision, the penalty ranges and other direct consequences of the pleas, and the constitutional rights being waived. The parties stipulated that the facts contained in the complaint provided a factual basis for the plea. The record shows no other ground to withdraw the plea. There is no arguable merit to this issue.

The no-merit report also addresses whether the circuit court erroneously exercised its sentencing discretion. As explained in the no-merit report, the sentence imposed is within the legal maximum. The standards for the circuit court, and this court on review, regarding discretionary sentencing issues are well-established and need not be repeated here. *See State v.*

*Gallion*, 2004 WI 42, ¶¶17-51, 270 Wis. 2d 535, 678 N.W.2d 197. In this case, the court considered appropriate factors, did not consider improper factors, and reached a reasonable result. Any argument that the circuit court erroneously exercised its sentencing discretion is without arguable merit.

Our review of the record discloses no other potential issues for 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 Patricia Sommer is relieved of any further representation of Randall Woodard in this matter. *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*