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DISTRICT III

November 22, 2022

To:

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Circuit Court Judge
Electronic Notice

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

2020AP816-CRNM State of Wisconsin v. Joshua J. Carpenter (L. C. No. 2017CF301)

Before Stark, P.J., Hruz and Dugan, 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 Joshua Carpenter has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2019-20),¹ and *Anders v. California*, 386 U.S. 738 (1967), concluding that no grounds exist to challenge Carpenter's convictions for eleven criminal offenses. Carpenter has filed a response to the no-merit report raising multiple issues, and counsel has filed a

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

supplemental no-merit report. Upon our independent review of the record as mandated by *Anders*, we conclude that there is no arguable merit to any issue that could be raised on appeal. Therefore, we summarily affirm the judgment of conviction. *See* WIS. STAT. RULE 809.21.

On April 19, 2017, the State filed a criminal complaint charging Carpenter with ten offenses, each as a repeater: two counts of second-degree sexual assault (domestic abuse); two counts of false imprisonment (domestic abuse); one count of felony intimidation of a victim (domestic abuse); two counts of misdemeanor battery (domestic abuse); and three counts of misdemeanor bail jumping. The charges were based on events that occurred in April 2017. The alleged victim of the sexual assault, false imprisonment, victim intimidation, and misdemeanor battery charges was Carpenter's fiancée, Katie,² with whom Carpenter lived and shared a child.

Following a preliminary hearing, the circuit court found that probable cause existed to believe that Carpenter had committed the felony offenses charged in the criminal complaint, and the court bound Carpenter over for trial. The State subsequently filed an Information containing the same charges as the complaint, and Carpenter entered not-guilty pleas to each of those charges. The court later granted the State's motion to join this case with Outagamie County case No. 2017CM97, in which Carpenter had been charged with a single count of disorderly conduct (domestic abuse) based on a January 30, 2017 incident involving Katie.

Thereafter, the State sought leave to file an amended Information. The State sought to remove the charge of felony intimidation of a victim (domestic abuse) and add a new charge of

² Pursuant to the policy underlying WIS. STAT. RULE 809.86(4), we refer to the victim using a pseudonym.

misdemeanor intimidation of a victim (domestic abuse), as a repeater, based on events that occurred between April 20 and May 1, 2017. The State also sought to amend one of the misdemeanor battery charges to a charge of disorderly conduct (domestic abuse), as a repeater. In addition, the State sought to formally amend the Information to add the disorderly conduct (domestic abuse) charge from Outagamie County case No. 2017CM97 and to add a repeater enhancer to that charge. Carpenter did not object to these amendments, and the circuit court granted the State's motion to amend the Information.

The case ultimately proceeded to a three-day jury trial. At trial, Katie testified that on January 30, 2017, Carpenter "got very angry" at her because he believed that she was masturbating in their bedroom. An argument ensued, during which Katie testified there was "a lot of hitting and grabbing on both ends ... from me to him and him to me." Katie testified that at one point, Carpenter stuck his hand in her mouth and grabbed her face. Katie's upstairs neighbors called the police because they heard Katie and Carpenter arguing. One of the neighbors testified at trial that he heard Katie crying that night, heard the sound of someone being "slapped," and heard Katie saying things like "Get off of me," and "Get away from me." The other neighbor similarly testified that he heard Carpenter yelling at Katie, heard Katie crying, heard the sound of hitting, and heard Katie say, "Stop hitting me."

Katie further testified that on the night of April 15-16, 2017, Carpenter woke her and was again angry because he thought she was masturbating. Katie testified that she has restless leg syndrome, which sometimes causes her legs to shake uncontrollably while she is trying to sleep. Carpenter did not believe that her movement in bed was caused by her restless leg syndrome, however, and he instead decided to "check for himself" whether she had been using a sex toy. When asked to elaborate, Katie testified that Carpenter held her down with his arm, inserted his

fingers into her vagina and anus to check for the presence of a sex toy, and also used a flashlight to look inside her. Katie further testified that she told Carpenter to stop multiple times and struggled against him. She also testified that his actions were degrading and caused her pain.

Katie testified that she and Carpenter spent the following day—Sunday, April 16—with her family. She explained that she did not tell anyone what had happened the night before because she was scared, she did not know if telling someone would do any good, and she did not want to make things worse and make Carpenter more angry.

Katie further testified that on the night of April 16-17, 2017, her legs were again shaking in bed and Carpenter again accused her of masturbating. Using “all of his strength,” Carpenter wrapped his legs around her legs and wrapped his arms around her chest, causing her “[a] lot” of pain. When Katie struggled and yelled at Carpenter to get off of her, he grabbed her neck and told her to “shut the fuck up before he made [her] take [her] last breath.” Katie testified that she was then “pushed off the bed,” and Carpenter held her down on the floor. He took her shorts off and told her that she was not allowed to wear them anymore. Katie ended up on the couch in the living room, but Carpenter repeatedly came into the living room to “inspect” her hands and blanket to make sure that she had not been masturbating. At one point, he smeared an ointment on her vaginal area without her consent so that he could tell whether she had been touching herself.

Katie testified that on the morning of April 17, 2017, she took her children to daycare and went to work as usual. That afternoon, she returned home with the child she and Carpenter shared, believing that Carpenter would be at work. Carpenter was home, however, and they argued about the events that had taken place over the weekend. Katie decided to leave with the

child, but Carpenter grabbed the child's car seat to prevent her from doing so. A struggle ensued, during which Carpenter grabbed Katie's neck and Katie bit Carpenter's shoulder. Katie ultimately left without the child and went to her mother's house. Katie reported Carpenter's actions to her mother, and Katie's mother called 911.

Katie described Carpenter's actions during a recorded interview with a law enforcement officer on April 17, 2017, and portions of that interview were played for the jury at trial. The jury also learned that after Katie's interview with police, she was taken to the hospital for an examination by a sexual assault nurse examiner (SANE). The SANE documented a two millimeter by one millimeter abrasion on Katie's posterior fourchette (the area between the vagina and anus), which had likely occurred within the past twenty-four to forty-eight hours. The SANE testified that this injury was consistent with "digital penetration and a fingernail."

Katie testified that after the April 2017 incidents, while Carpenter was in custody awaiting trial, he communicated with her and tried to convince her to change her statement and minimize his actions. Katie further testified that as a result of that conversation, she "change[d] [her] statement" to reflect what she and Carpenter had discussed. Katie explained that she changed her statement because she was scared, she did not know how much trouble Carpenter would get into, she was worried about "how much worse things would be" if he came home, and she loved him and wanted to protect him. Katie also testified that after Carpenter was charged, his mother conveyed messages to her from Carpenter instructing her to "downplay" Carpenter's conduct "significantly" and telling her specific things that could and could not be included in her statements. The jury heard recordings of jail phone calls in which Carpenter instructed his mother to tell Katie that specific details should not be included in her statements to law enforcement.

On cross-examination, Katie conceded that she had contacted Carpenter’s trial attorney and told him that Carpenter did not sexually assault her, physically restrain her, hold her down, batter her, choke her, or physically harm her. Katie also conceded that on May 4, 2018, she wrote a letter to the circuit court in which she minimized Carpenter’s conduct and asserted that her initial statement to law enforcement was inaccurate. In the May 4 letter, Katie asserted that on the night of April 15, 2017, Carpenter “wanted to feel my private areas to see if there was evidence of my pleasuring myself. When he saw how upset this made me, he immediately stopped, gave me a kiss on the head and left the room.” The May 4 letter did not include any mention of Carpenter taking off Katie’s shorts or rubbing ointment on her vaginal area on April 16, 2017. The letter also stated that Katie had been sexually assaulted at age thirteen and that her statements to police about Carpenter sexually assaulting her actually referred to that prior assault. At trial, Katie testified that Carpenter told her to write the May 4 letter and “downplay” his conduct so that the charges against him would be dropped.

Jane Graham Jennings, an expert witness for the State, testified that it is common for victims of domestic abuse to stay in a relationship with their abusers and to minimize the abuse they have suffered. Graham Jennings also testified that it is “pretty common” for victims of domestic abuse to recant their allegations. She explained that recantations may occur because the victim is “trying to figure out how someone that they love could hurt them”; because the victim blames him- or herself for the abuser’s conduct; because of direct or indirect threats from the abuser; or because the victim becomes worried about the practical effects of the abuser being arrested and incarcerated—for instance, losing a source of income for their family or destroying the abuser’s career.

Carpenter testified in his own defense at trial. He denied yelling at Katie or hitting her during the January 30, 2017 incident. With respect to the weekend of April 15-16, 2017, he denied touching Katie sexually without her consent, holding Katie down, choking her, using a flashlight to look inside her body, hitting her, or preventing her from going anywhere. He did admit, however, that he had touched Katie's "butt crack" on the night of April 16 to check whether she was using a vibrator.

Carpenter's sister, Gena Froehlich, also testified for the defense. Froehlich testified that Carpenter and Katie came to her house during the early evening on April 16, 2017, so that Carpenter could help her assemble a trampoline. She testified that she did not observe any injuries to either Carpenter or Katie at that time. She also testified that Carpenter and Katie were not arguing and that she did not observe any physical contact between them.

The jury found Carpenter guilty of each of the eleven charges against him.³ The circuit court ordered a presentence investigation report and subsequently held a sentencing hearing, during which both sides made their sentencing arguments and Carpenter exercised his right of allocution. The court also heard statements made by Katie's parents, Carpenter's mother, and two of Carpenter's sisters.

During its sentencing remarks, the circuit court addressed the seriousness of Carpenter's offenses; Carpenter's character, including his conduct record in jail, his pattern of controlling

³ Carpenter stipulated, for purposes of the misdemeanor bail jumping charges, that he was released on bond at the time of the April 2017 incidents and that his bond conditions prohibited him from committing any new crimes. Carpenter also stipulated, for purposes of sentencing, that he met the statutory criteria to be sentenced as a repeater. *See* WIS. STAT. § 939.62(2). In addition, the record reflects that Carpenter was convicted of felony bail jumping on April 1, 2015, which was within the five-year period immediately preceding the commission of the offenses at issue in this case. *See id.*

behavior, and his inability to recognize his own culpability; the possibility of rehabilitation; and the need to protect the public. The court also acknowledged Carpenter's difficult upbringing and addiction issues. The court ultimately imposed concurrent and consecutive sentences totaling eight years of initial confinement followed by ten years of extended supervision.

The no-merit report addresses whether there are any issues of arguable merit regarding: (1) the criminal complaint; (2) Carpenter's initial appearance; (3) the preliminary hearing; (4) the Information; (5) the arraignment; (6) the State's motion for joinder; (7) the issuance of search warrants permitting the State to examine three letters held by the Outagamie County Jail; (8) the issuance of a search warrant permitting the State to obtain a sample of Carpenter's DNA; (9) the State's amendment of the Information; (10) the circuit court's pretrial evidentiary rulings; (11) jury selection; (12) the jury instructions; (13) the parties' opening statements; (14) the court's evidentiary rulings during trial; (15) Carpenter's trial counsel's failure to move for a directed verdict; (16) Carpenter's decision to testify at trial and waiver of his right not to testify; (17) a juror who was observed closing his eyes during trial; (18) a juror who indicated during trial that she recognized Froehlich from work; (19) the parties' closing arguments; (20) the court's responses to questions posed by the jury during its deliberations; (21) the sufficiency of the evidence to support the jury's verdicts; (22) the sufficiency of the evidence to establish Carpenter's status as a repeater; and (23) the court's exercise of sentencing discretion. We agree with counsel's description, analysis, and conclusion that these potential issues lack arguable merit, and we therefore do not address them further.

In his response to the no-merit report, Carpenter first argues that he is entitled to relief based on his trial attorney's motion to withdraw as counsel on the morning of the first day of trial. We agree with appellate counsel that this issue lacks arguable merit. Carpenter's trial

attorney moved to withdraw on the grounds that Katie's recantation to him made him a necessary witness at trial. The circuit court denied the motion to withdraw, reasoning that it was untimely because trial counsel had been aware of Katie's recantation since April 25, 2018—approximately four months before the start of trial—but had not moved to withdraw until the first day of trial. The court further held that Carpenter's trial counsel could cross-examine Katie regarding her recantation to him, and if Katie denied that recantation, the defense could introduce an affidavit or some other form of evidence setting forth the substance of the recantation. Under these circumstances, the court's denial of trial counsel's motion to withdraw did not constitute an erroneous exercise of discretion. See *State v. Jones*, 2010 WI 72, ¶23, 326 Wis. 2d 380, 797 N.W.2d 378 (noting that the decision whether to grant an attorney's motion to withdraw is committed to the circuit court's discretion).

Moreover, we agree with appellate counsel that Carpenter is not entitled to relief on this basis because he cannot show that he was prejudiced by the circuit court's denial of his trial attorney's motion to withdraw. At trial, Katie conceded on cross-examination that she had contacted Carpenter's trial attorney and recanted her allegations against Carpenter. She specifically testified that she told trial counsel that Carpenter did not sexually assault her, physically restrain her, hold her down, batter her, choke her, or physically harm her. Thus, the jury heard the same evidence directly from Katie that Carpenter's trial counsel would have provided had he been permitted to withdraw and testify for the defense. Trial counsel's

testimony regarding Katie's recantation would have therefore been cumulative. As such, the denial of trial counsel's motion to withdraw did not prejudice Carpenter.⁴

Carpenter next asserts, generally, that his trial attorney "was not prepared for trial." To prevail on an ineffective assistance of counsel claim, a defendant must show both deficient performance and prejudice. *Strickland v. Washington*, 466 U.S. 668, 687 (1984). To establish deficient performance, a defendant must "point to *specific acts or omissions* by the lawyer that are 'outside the wide range of professionally competent assistance.'" *State v. Ward*, 2011 WI App 151, ¶8, 337 Wis. 2d 655, 807 N.W.2d 23 (emphasis added; citation omitted). Carpenter's vague assertion regarding his trial attorney's failure to prepare for trial does not meet this standard. Moreover, in the supplemental no-merit report, appellate counsel asserts that she has reviewed trial counsel's file, which shows that trial counsel "spent considerable time preparing for trial and ... questioned witnesses accordingly throughout the entirety of the proceedings." In addition, our independent review of the record does not provide any support for a conclusion that trial counsel was unprepared for trial. Any claim that trial counsel was constitutionally ineffective by failing to prepare for trial would therefore lack arguable merit.

Carpenter also asserts that his trial attorney was constitutionally ineffective by failing to ask additional questions during Froehlich's trial testimony. Carpenter contends that Froehlich

⁴ In his response to the no-merit report, Carpenter asserts that he felt pressured by the circuit court to proceed to trial with his appointed attorney and did not feel he could tell the court that he wanted his attorney to withdraw. This claim lacks arguable merit. Regardless of whether Carpenter asked the court to allow his trial attorney to withdraw, counsel did, in fact, move to withdraw, and the court denied that motion. As explained above, the court did not erroneously exercise its discretion by denying the motion to withdraw, and there is no basis to conclude that the court's denial of the motion prejudiced Carpenter. Furthermore, there is nothing in the record to suggest that the court would have ruled differently on the motion to withdraw had Carpenter stated that he wanted the court to grant that motion.

knows information that “needs to be told to a jury,” although he does not specify what that information might be. In the supplemental no-merit report, appellate counsel explains that this issue lacks arguable merit because the information in question was inadmissible hearsay and would have therefore been properly excluded had trial counsel attempted to elicit it from Froehlich at trial. We agree with appellate counsel that, under these circumstances, there would be no arguable merit to a claim that Carpenter’s trial attorney performed deficiently by failing to question Froehlich about this information.

Carpenter next argues that his trial attorney was ineffective by failing to call Carpenter’s former attorney’s legal assistant, Kim, to testify at trial. Carpenter asserts that Katie provided two separate statements to Kim in which she recanted her allegations against him. We agree with appellate counsel, however, that Carpenter cannot show that he was prejudiced by his trial attorney’s failure to call Kim to testify at trial. The jury heard evidence about a recantation letter that Katie wrote to the circuit court, and it also heard that Katie recanted her allegations when speaking to Carpenter’s trial attorney. Testimony about additional recantations that Katie provided to Kim would have therefore been cumulative. Furthermore, the State introduced expert testimony at trial explaining why it is common for victims of domestic abuse to recant their allegations. Under these circumstances, it is not reasonably probable that the result of Carpenter’s trial would have been different had his trial attorney called Kim to testify. *See Strickland*, 466 U.S. at 694 (explaining that to establish the prejudice prong of an ineffective assistance claim, a defendant must show a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different).

Next, Carpenter contends that his appellate attorney was constitutionally ineffective by failing to obtain recordings of postconviction phone calls between Carpenter and Katie.

Carpenter asserts these recordings would have shown that Katie continued to have contact with him after he was convicted and again recanted her allegations against him. In the supplemental no-merit report, appellate counsel explains that she requested recordings of these postconviction phone calls, but the correctional institution refused to provide them, “citing to the confidentiality of the contents as they related to the third party on the other end of the call.” Counsel further explains that she decided not to seek a court order to obtain the recordings because she did not believe she could show that they were relevant to Carpenter’s appeal.

More specifically, appellate counsel explains that the postconviction phone calls would be relevant on appeal only to show that Carpenter is entitled to a new trial based on newly discovered evidence. To make this showing, Carpenter would need to establish, by clear and convincing evidence, that: (1) the evidence was discovered after his conviction; (2) he was not negligent in seeking evidence; (3) the evidence is material to an issue in the case; and (4) the evidence is not merely cumulative. See *State v. Edmunds*, 2008 WI App 33, ¶13, 308 Wis. 2d 374, 746 N.W.2d 590. If these four criteria are satisfied, a court must then consider whether there is a reasonable probability that a new trial would produce a different result. *Id.*

We agree with appellate counsel that Carpenter cannot show that the postconviction phone calls constitute newly discovered evidence entitling him to a new trial. To the extent Carpenter contends the phone calls are relevant to show that Katie continued to have contact with him following his conviction, the phone calls are merely cumulative of other evidence that was introduced at trial, which showed that Katie remained in contact with Carpenter after he was arrested in April 2017. Moreover, the State introduced expert testimony at trial explaining that it is common for victims of domestic abuse to stay in relationships with their abusers. Under these

circumstances, it is not reasonably probable that a jury would reach a different result at a new trial after hearing additional evidence regarding Katie's postconviction contact with Carpenter.

To the extent Carpenter claims that the postconviction phone calls would show that Katie again recanted her allegations against him, we note that "newly discovered recantation evidence must be corroborated by other newly discovered evidence." See *State v. McCallum*, 208 Wis. 2d 463, 476, 561 N.W.2d 707 (1997). "[T]he corroboration requirement in a recantation case is met if: (1) there is a feasible motive for the initial false statement; and, (2) there are circumstantial guarantees of the trustworthiness of the recantation." *Id.* at 477-78. In the supplemental no-merit report, appellate counsel explains that she hired an investigator to interview Katie regarding her alleged postconviction recantation. Katie "resoundingly" told the investigator "that Carpenter had put her up to recanting," and she denied that any recantation was true. She also told the investigator that she had testified truthfully at trial and that Carpenter "had always told her what to say to falsify recantations." Given these facts, we agree with appellate counsel that Katie's alleged postconviction recantation does not meet the corroboration requirement set forth in *McCallum*, as there are no circumstantial guarantees of the recantation's trustworthiness.

For the reasons explained above, the recorded postconviction phone calls between Carpenter and Katie do not satisfy the criteria for a new trial based on newly discovered evidence. Consequently, any claim that appellate counsel was constitutionally ineffective by failing to seek a court order to obtain those recordings would lack arguable merit.

Carpenter next asserts that his trial attorney was ineffective by failing to play the entirety of a recorded jail phone call between Carpenter and his mother at trial. Carpenter does not, however, identify with any specificity which phone call he believes trial counsel should have

played in its entirety. Again, to establish ineffective assistance of counsel, a defendant must point to *specific acts or omissions* that fall outside the wide range of professionally competent assistance. *Ward*, 337 Wis. 2d 655, ¶8. Moreover, Carpenter contends the recorded phone call would have showed that Katie's initial recantation statement was "printed" from a computer, which would have made it impossible for Carpenter or his mother to make changes to that statement. Carpenter does not explain, however, why Katie could not have retyped and reprinted her statement after Carpenter or his mother told her which changes to make. On this record, there is no basis to conclude that it is reasonably probable the result of Carpenter's trial would have been different had the jury heard the entirety of the recorded phone call.

Carpenter also asserts that Katie lied to police to "get [him] locked up" because she was under the influence of heroin on the dates in question. Carpenter did not, however, raise this allegation during his trial testimony. When testifying at trial, Carpenter asserted that he and Katie were using Adderall both on January 30, 2017, and on the weekend of April 15-16, 2017. He never claimed, however, that Katie was under the influence of heroin on those dates. The allegations in Carpenter's response to the no-merit report, if true, show that he was aware of Katie's alleged heroin use as of April 2017. As such, evidence that Katie was using heroin on the dates in question would not qualify as newly discovered evidence because it would have been known to Carpenter at the time of trial. See *Edmunds*, 308 Wis. 2d 374, ¶13. Thus, there would be no arguable merit to a claim that Carpenter is entitled to a new trial based on that evidence.

Carpenter also claims that his trial attorney was ineffective by failing to show the jury pictures of the bite mark that Katie left on his shoulder. This issue lacks arguable merit because Carpenter cannot show that he was prejudiced by counsel's failure to introduce pictures of the bite mark at trial. Katie conceded during her trial testimony that she bit Carpenter's arm or

shoulder on April 17, 2017, while she and Carpenter were struggling over their child's car seat. Carpenter similarly testified at trial that while he and Katie were arguing on April 17, Katie "sunk her teeth into [his] shoulder," leaving tooth marks on his body. Thus, the jury was well aware that Katie bit Carpenter's shoulder during their argument on April 17. It is not reasonably probable that the result of Carpenter's trial would have been different had the jury seen pictures of the bite mark.

Carpenter next cites evidence showing that Katie had telephone contact with him while he was in custody awaiting trial. He has also submitted letters, cards, and pictures that Katie sent him while he was awaiting trial, and he further asserts that Katie attempted to send him pornography during that time period. Again, however, other evidence was introduced at trial showing that Katie remained in contact with Carpenter following his arrest in April 2017. Katie specifically admitted sending Carpenter mail and having phone contact with him while he was in custody awaiting trial. Additional evidence regarding pretrial contact between Katie and Carpenter would have therefore been cumulative. Furthermore, we again note that the State's expert explained at trial that it is common for victims of domestic abuse to stay in relationships with their abusers. Thus, the fact that Katie kept in contact with Carpenter while he awaited trial would not have been unusual or surprising. As such, it is not reasonably probable that the result of Carpenter's trial would have been different had his trial attorney sought to introduce additional evidence of pretrial contact between Katie and Carpenter.

Next, Carpenter asserts that he never sexually assaulted Katie, battered her, or held her against her will. Carpenter testified at trial and denied Katie's allegations. After hearing both Katie's testimony and Carpenter's testimony, as well as the other evidence presented by the parties, the jury found Carpenter guilty of each of the crimes charged. As explained in the

no-merit report, and confirmed by our independent review of the record, there would be no arguable merit to a claim that the evidence at trial was insufficient to support the jury's verdicts. Under these circumstances, Carpenter's assertion that he did not commit the crimes charged does not give rise to an issue of arguable merit.

Carpenter also contends that after his trial, Katie made false statements in two separate court proceedings: a small claims case in which he sued Katie to recover items of personal property, and a case in which Katie petitioned to change the name of the child that she and Carpenter share. There is no basis to conclude that any false statements that Katie may have made in those separate cases are material to an issue in this case. *See Edmunds*, 308 Wis. 2d 374, ¶13. Consequently, any claim that Carpenter is entitled to a new trial based on those statements would lack arguable merit.

Finally, Carpenter's response to the no-merit report includes what he claims are pictures of text messages that Katie sent to his mother and sister after trial. In the text messages, Katie inquired about Carpenter, sent pictures of her children to Carpenter's sister, and discussed printing pictures of the children for Carpenter. Again, there is no basis to conclude that these text messages are material to any issue in this case. *See id.* Thus, there would be no arguable merit to a claim that Carpenter is entitled to a new trial based on the text messages.

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 Erica L. Bauer is relieved of her obligation to further represent Joshua Carpenter 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