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**DISTRICT II**

November 30, 2022

To:

Hon. Andrew J. Christenson  
Circuit Court Judge  
Electronic Notice

Ramona Geib  
Clerk of Circuit Court  
Fond du Lac County Courthouse  
Electronic Notice

Winn S. Collins  
Electronic Notice

Jefren E. Olsen  
Electronic Notice

David L. Frohn  
P.O. Box 800  
Sandridge Secure Treatment Facility  
Mauston, WI 53948

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

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2022AP1193-NM

In re the commitment of David L. Frohn:  
State of Wisconsin v. David L. Frohn (L.C. #1997CF46)

Before Gundrum, P.J., Neubauer and Grogan, 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).**

David L. Frohn, a sexually violent person committed to the custody of the Department of Health and Social Services (DHSS) under the auspices of WIS. STAT. ch. 980, appeals an order denying his petition for supervised release. Frohn's appointed appellate counsel, Attorney Jefren E. Olsen, has filed a no-merit report pursuant to *Anders v. California*, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32 (2019-20).<sup>1</sup> Frohn was advised of his right to file a

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

response but has not done so. Based upon our review of the no-merit report and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. We affirm.

Frohn was committed as a sexually violent person in 1997 following his 1991 conviction for first-degree sexual assault of a child. He was admitted to Sand Ridge Secure Treatment Center in 2001 and consented to treatment. Over the years he has filed numerous petitions for discharge and/or supervised release. This appeal concerns his 2020 and 2021 petitions for supervised release.

Following his 2020 annual re-examination, Frohn petitioned for supervised release.<sup>2</sup> The court appointed Dr. Scott Woodley to conduct an examination. While that petition was pending, DHSS filed Frohn's 2021 annual re-examination report, in which Dr. Robert Barahal concluded, with qualifications, that Frohn could be a candidate for supervised release. The accompanying treatment progress report by Dr. Darren Matusen concluded, however, that Frohn was not making significant progress in treatment. Specifically, Matusen concluded that although Frohn was participating in treatment and willing to address his treatment needs, Frohn did not meet the statutory criteria for supervised release relating to his understanding of the factors associated with his sexual arousal and his demonstrating sufficiently sustained change in those factors. *See* WIS. STAT. § 980.01(8)(c) and (d).

Based on Barahal's report, Frohn filed another petition for supervised release in 2021. Shortly before a trial on the petitions, Woodley filed his report concluding that Frohn met the

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<sup>2</sup> As a result of this petition, the Office of the State Public Defender appointed counsel for Frohn.

statutory criteria for supervised release. The matter proceeded to a bench trial at which Woodley, Barahal, and Matusen testified.

The court found that Frohn was not a suitable candidate for supervised release. The court noted that the testimony was undisputed that Frohn met the criteria under WIS. STAT. § 980.01(8)(a) and (b), and it lauded his participation in treatment and willingness to work on his treatment needs. However, the court noted the doctors disagreed about whether Frohn had satisfied sub. (8)(c) and (d). It credited Matusen's testimony on this point, noting that Frohn had fantasized about a minor just weeks prior to the trial. Emphasizing Frohn's recent history of lies and misbehavior, the court also rejected the notion that Frohn could be reasonably expected to comply with his treatment requirements and conditions of supervised release. *See* WIS. STAT. § 980.08(4)(cg)4. For these reasons, the court also concluded that Frohn had not demonstrated that it was substantially probable he would not engage in an act of sexual violence while on supervised release. *See* § 980.08(4)(cg)2.

The no-merit report addresses whether there would be any arguable merit to challenging the order denying supervised release based on possible pretrial issues, Frohn's appearance at trial by audiovisual means, recusal or bias based on the circuit court judge's prior work as an assistant district attorney, or evidentiary issues at trial. The no-merit report also analyzes the sufficiency of the evidence to support the circuit court's denial of supervised release. Our review of the appellate record satisfies us that the no-merit report sufficiently analyzes these issues and properly concludes that any challenge predicated upon them would be frivolous and lacking in arguable merit. Our review of the appellate record discloses no other nonfrivolous issues for appeal.

Based on the foregoing,

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

IT IS FURTHER ORDERED that Attorney Jefren E. Olsen is relieved of further representing David L. Frohn in this appeal. *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*