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DISTRICT III

November 29, 2022

To:

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Circuit Court Judge
Electronic Notice

John VanderLeest
Clerk of Circuit Court
Brown County Courthouse
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You are hereby notified that the Court has entered the following opinion and order:

2021AP417-CRNM	State of Wisconsin v. Samuel David Cannon
2021AP418-CRNM	(L. C. Nos. 2017CF1007, 2017CF1008)

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).

In these consolidated appeals, Samuel Cannon appeals from amended judgments convicting him of second-degree sexual assault of a child and substantial battery. Attorney Timothy O'Connell has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2019-20).¹ Cannon was informed of his right to respond to the no-merit report, but he has not filed a response. Having independently reviewed the entirety of

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

the records as mandated by *Anders v. California*, 386 U.S. 738, 744 (1967), we conclude that counsel will be allowed to withdraw and the judgments shall be summarily affirmed.

In Brown County case No. 2017CF1007, the State charged Cannon with abduction of a child and first-degree sexual assault of a child under the age of sixteen, each as a repeat offender, based upon allegations that Cannon helped a teenaged girl run away from her family and then had sexual intercourse with her. In Brown County case No. 2017CF1008, the State charged Cannon with substantial battery by use of a dangerous weapon, as a repeat offender, based upon allegations that, while highly intoxicated, Cannon stabbed a friend in the legs. Pursuant to a plea agreement encompassing both cases, Cannon pled no contest to reduced charges of second-degree sexual assault of a child and substantial battery, without the penalty enhancers. In exchange, the State agreed to dismiss and read in the abduction charge and to cap its total sentence recommendation at fourteen years' initial confinement followed by fifteen years' extended supervision, with the defense free to argue. The circuit court accepted Cannon's pleas after conducting a plea colloquy, reviewing a signed plea questionnaire and waiver of rights forms with attached jury instructions for each case, and ascertaining that the complaints set forth a factual basis for the pleas.

The circuit court subsequently held a sentencing hearing at which the parties addressed the court, discussed the Department of Correction's presentence investigation report (PSI) and an alternative PSI, prepared for the defense, and provided recommendations in accordance with the plea agreement. After hearing from the parties, the court discussed relevant sentencing factors, including the gravity of the offenses; the character of the offender; the need to protect the public and objectives such as punishment, deterrence, and rehabilitation. The court then sentenced Cannon to ten and one-half years' initial confinement followed by fifteen years' extended

supervision on the sexual assault count and to one and one-half years' initial confinement followed by two years' extended supervision on the battery count. The sentences were to be served consecutively to one another but concurrently with a separate sentence Cannon was already serving.

Cannon filed postconviction motions seeking to amend the conditions of his extended supervision to allow contact with his children, grandchildren, and siblings' descendants, and to apply 148 days of sentence credit. The circuit court granted both motions.

The no-merit report addresses the validity of the pleas and the sentences, as modified. Upon reviewing the records, we agree with counsel's description, analysis, and conclusion that neither of these issues has arguable merit. The no-merit report sets forth an adequate discussion of the potential issues to support the no-merit conclusion, and we need not address them further.

Our independent review of the records discloses no other potential issues for appeal.² We conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders*. Accordingly, counsel shall be allowed to withdraw, and the judgments of conviction will be summarily affirmed. *See* WIS. STAT. RULE 809.21.

Upon the foregoing,

IT IS ORDERED that the judgments of conviction are summarily affirmed pursuant to WIS. STAT. RULE 809.21.

² Cannon's pleas forfeited the right to raise other nonjurisdictional defects and defenses, including claimed violations of his constitutional rights. *See State v. Kelty*, 2006 WI 101, ¶18 & n.11, 294 Wis. 2d 62, 716 N.W.2d 886; *see also State v. Lasky*, 2002 WI App 126, ¶11, 254 Wis. 2d 789, 646 N.W.2d 53.

IT IS FURTHER ORDERED that Attorney Timothy O'Connell is relieved of any further representation of Samuel Cannon in these matters pursuant to 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