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**DISTRICT III**

December 6, 2022

To:

Hon. Emily I. Lonergan  
Circuit Court Judge  
Electronic Notice

Michelle M. Swardenski  
Electronic Notice

Barb Bocik  
Clerk of Circuit Court  
Outagamie County Courthouse  
Electronic Notice

J. H.  
Outagamie County Jail  
P.O. Box 1779  
Appleton, WI 54912-1779

Karen Lueschow  
Electronic Notice

Sara Elizabeth Stertz  
Electronic Notice

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

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2022AP749-NM  
2022AP750-NM  
2022AP751-NM  
2022AP1182-NM

Outagamie County Department of Health and Human Services v.  
J. H. (L. C. Nos. 2020JC33, 2020JC34, 2021JC22, 2020JC35)

Before Hruz, J.<sup>1</sup>

**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).**

Jeremy<sup>2</sup> appeals from dispositional orders finding his four minor children to be in need of protection or services (CHIPS). Counsel for Jeremy filed a no-merit report pursuant to

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<sup>1</sup> These appeals are decided by one judge pursuant to WIS. STAT. § 752.31(2) (2019-20). All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

<sup>2</sup> For ease of reading, we use pseudonyms rather than initials when referring to J.H., his children, and the children's mother in these confidential matters. See WIS. STAT. RULE 809.81(8).

WIS. STAT. RULE 809.32, concluding that there is no arguable basis for challenging the dispositional orders. Jeremy was advised of his right to respond to the report, and he has not responded. Based upon an independent review of the records as mandated by *Anders v. California*, 386 U.S. 738 (1967), this court concludes that an appeal would lack arguable merit. Therefore, the orders are summarily affirmed.<sup>3</sup> See WIS. STAT. RULE 809.21.

In March 2020, the Outagamie County Department of Health and Human Services took temporary physical custody of three children Jeremy shared with the children’s mother Connie—then three-year-old Jeffrey, two-year-old Nancy, and nine-month-old Ava—based on allegations that Jeremy’s drug use and mental illness were impacting his ability to parent safely. The Department filed petitions for protection or services, alleging neglect under WIS. STAT. § 48.13(10). The petitions detailed safety concerns that included a long-standing history of Child Protective Services’ involvement and a “drug[-]endangered environment” that is unsafe for vulnerable children.

Jeremy was subsequently charged with first-degree sexual assault of a child—Connie’s daughter from a previous relationship—and was incarcerated pending completion of the case as a result. Connie was charged with first-degree sexual assault of her son, incest and child sexual exploitation. While in jail, she gave birth to Mark, her fourth child with Jeremy. Mark was immediately taken into temporary physical custody, and the Department petitioned for protection or services alleging inadequate care due to a parent’s incarceration, risk of neglect, and risk of

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<sup>3</sup> The dispositional orders, as they relate to the children’s mother, are not the subject of these appeals.

abuse, contrary to WIS. STAT. § 48.13(8), 48.13(10m), and 48.13(3m), respectively. The petitions regarding the other three children were amended to add allegations of abuse, risk of abuse, and inadequate care due to a parent's incarceration.

In exchange for Jeremy's no-contest plea to the ground of inadequate care due to incarceration, the Department agreed to recommend dismissing the remaining grounds alleged. After a lengthy plea colloquy, the circuit court accepted Jeremy's no-contest plea. The court subsequently conducted a dispositional hearing, found the children to be in need of protection or services, and ordered out-of-home placement for the children.

The no-merit report addresses whether good cause supported extensions of the statutory deadlines when resolving these matters; whether Jeremy knowingly, intelligently, and voluntarily entered his no-contest plea; and whether there are any grounds to challenge the effectiveness of Jeremy's trial counsel. Upon reviewing the records, this court agrees with counsel's description, analysis, and conclusion that these potential issues lack arguable merit. Because the no-merit report sets forth an adequate discussion of these matters, we need not discuss them further.

We further conclude that any challenge to the circuit court's findings or dispositional orders would lack arguable merit. A circuit court's factual findings will not be disturbed on appeal unless they are clearly erroneous. WIS. STAT. § 805.17(2). After hearing testimony from Jeremy and the children's social worker, the court found that the children were in need of protection or services; placement in their parents' home was contrary to the children's welfare; the Department made reasonable efforts to prevent removal; reasonable efforts were made to keep the sibling group together; and a permanency plan was filed. Based on the serious

allegations against Jeremy, the court ordered that photographs of the children would not be shared with Jeremy based on the potential for re-victimization of the children. The court reviewed each of the conditions for the children's return to their parental home, including conditions to be met while Jeremy was incarcerated. The court also gave Jeremy the termination of parental rights warnings required by WIS. STAT. § 48.356. The court ultimately transferred legal custody of the children to the Department and continued their current out-of-home placements. The records support the court's findings and its dispositional orders.

An independent review of the records reveals no other potential issues of arguable merit.

Therefore,

IT IS ORDERED that the orders are summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Karen Lueschow is relieved of her obligation to further represent J.H. in these matters. *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*