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DISTRICT I

December 20, 2022

To:

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Circuit Court Judge
Electronic Notice

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Clerk of Circuit Court
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Ted Vincent Stevens 426084
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You are hereby notified that the Court has entered the following opinion and order:

2020AP1987-CRNM	State of Wisconsin v. Ted Vincent Stevens (L.C. # 2016CF4636)
2020AP1988-CRNM	State of Wisconsin v. Ted Vincent Stevens (L.C. # 2017CF2053)

Before Brash, C.J., Dugan and White, 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 matters, Ted Vincent Stevens appeals the judgments convicting him of second-degree sexual assault with use of force, stalking, two counts of trespass to a dwelling, two counts of disorderly conduct, and misdemeanor bail jumping.¹ His appellate counsel, Angela C. Kachelski, has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 and

¹ In her no-merit report, appellate counsel indicates that Stevens is not appealing two misdemeanor convictions for which he was sentenced in 2017 in Milwaukee County Circuit Court Case No. 2016CF4636. Those convictions preceded Stevens' 2018 conviction in the same case for second-degree sexual assault with use of force, which is being appealed.

Anders v. California, 386 U.S. 738 (1967). Stevens received a copy of the report, was advised of his right to file a response, and has elected not to do so.² Upon consideration of the report and an independent review of the records as mandated by *Anders*, we conclude that the judgments may be summarily affirmed because there is no arguable merit to any issue that could be raised on appeal. *See* WIS. STAT. RULE 809.21.

Stevens was charged with one count of second degree sexual assault, one count of battery by a person subject to certain harassment injunctions as an act of domestic abuse, and two counts of knowingly violating a domestic abuse injunction in Milwaukee County Circuit Court Case No. 2016CF4636. He proceeded to trial and was found guilty of counts three and four, the two counts of knowingly violating a domestic abuse injunction. He was sentenced to eighteen months at the House of Correction. Stevens was acquitted of the battery count and the jury was hung as to count one, the second degree sexual assault charge.

The State subsequently charged Stevens in Milwaukee County Circuit Court Case No. 2017CF2053 with one count of stalking, two counts of criminal trespass, one count of criminal damage to property, two counts of disorderly conduct, and one count of bail jumping all as acts of domestic abuse. The State then moved to join count one, the second degree sexual assault count in Case No. 2016CF4636 with Case No. 2017CF2053. The circuit court granted the State's motion and the cases were tried together. Stevens was convicted of seven of the eight charges. He was acquitted of the charge of criminal damage to property.

² While he did not file a formal signed response, Stevens provided various submissions to this court, some of which are unsigned. We have considered all of the various filings in resolving these appeals.

On the charge of second-degree sexual assault in Case No. 2016CF4636, the circuit court sentenced Stevens to twenty-four years of initial confinement and ten years of extended supervision. In Case No. 2017CF2053, on the stalking charge, the circuit court sentenced Stevens to one year and six months of initial confinement and two years of extended supervision, to run consecutively to his sentences in Case No. 2016CF4636. On the remaining counts in Case No. 2017CF2053, the circuit court imposed sentences totaling an additional twenty-seven months of confinement.

The no-merit report addresses a number of potential issues, including various pretrial and evidentiary rulings, the sufficiency of the evidence, and whether the sentences were the result of an erroneous exercise of discretion. This court is satisfied that the no-merit report properly concludes that the issues it raises are without arguable merit.

We wish to briefly elaborate on the sufficiency of the evidence as to the sexual assault conviction. In the filings before the court, Stevens seems to suggest that there was no such evidence. The record belies this claim. In particular, the victim herself testified that Stevens forced her to have sexual intercourse. Her testimony is evidence. *See* WIS JI—CRIMINAL 103 (defining evidence to include “the sworn testimony of witnesses”).

We additionally note that Stevens seemingly believes he was proven innocent of the sexual assault accusation at the first trial. A hung jury is not the equivalent of an acquittal and there is nothing unusual about facing a second trial when a jury deadlocks on a charge in a first trial. *See State v. DuFrame*, 107 Wis. 2d 300, 305-06, 320 N.W.2d 210 (Ct. App. 1982).

Our review of the record discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit report, affirms the judgments, and discharges appellate counsel of the obligation to represent Stevens further in this appeal.

Upon the foregoing, therefore,

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

IT IS FURTHER ORDERED that Attorney Angela C. Kachelski is relieved of further representation of Ted Vincent Stevens 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