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**DISTRICT III**

December 29, 2022

To:

Hon. William F. Kussel, Jr.  
Circuit Court Judge  
Electronic Notice

Ethan Schmidt  
Clerk of Circuit Court  
Shawano County Courthouse  
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Winn S. Collins  
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Gregory A. Parker  
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Dennis Schertz  
Electronic Notice

Cole L. Danielson 647333  
Racine Youthful Offender Corr. Facility  
P.O. Box 2500  
Racine, WI 53404-2500

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

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2021AP962-CRNM      State of Wisconsin v. Cole L. Danielson (L. C. No. 2019CF215)

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).**

Attorney Dennis Schertz, as appointed counsel for Cole Danielson, filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2019-20),<sup>1</sup> and *Anders v. California*, 386 U.S. 738 (1967). Counsel provided Danielson with a copy of the report, and Danielson filed a response. We conclude that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. After our independent review of the record, we conclude that there is no arguable merit to any issue that could be raised on appeal.

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

Danielson pled no contest to one count of first-degree sexual assault of a child by use or threat of force, as a repeater. *See* WIS. STAT. §§ 948.02(1)(d), 939.62(1)(c). Pursuant to the plea deal, the circuit court dismissed and read in another count of sexual assault. The court imposed a sentence consisting of seventeen years of initial confinement followed by ten years of extended supervision.

The no-merit report addresses whether Danielson’s plea was entered knowingly, voluntarily, and intelligently. The plea colloquy sufficiently complied with the requirements of *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906, and WIS. STAT. § 971.08 relating to the nature of the charge, the rights Danielson was waiving, and other matters. The record shows no other ground to withdraw the plea. There is no arguable merit to this issue.

Both the no-merit report and Danielson’s response address sentencing. As explained in the no-merit report, the sentence is within the legal maximum. As to discretionary issues, the standards for the circuit court and this court are well established and need not be repeated here. *See State v. Gallion*, 2004 WI 42, ¶¶17-51, 270 Wis. 2d 535, 678 N.W.2d 197. In this case, the court considered appropriate factors, did not consider improper factors, and reached a reasonable result. There is no arguable merit to this issue.

Finally, the no-merit report discusses whether there would be arguable merit to a claim of ineffective assistance of counsel. To establish ineffective assistance of counsel, Danielson would have to show that his counsel’s performance fell below an objective standard of reasonableness and that Danielson was prejudiced as a result. *See Strickland v. Washington*, 466 U.S. 668, 687 (1984). In reviewing trial counsel’s performance, “every effort is made to avoid determinations of ineffectiveness based on hindsight[,] ... and the burden is placed on the defendant to overcome

a strong presumption that counsel acted reasonably within professional norms.” *State v. Johnson*, 153 Wis. 2d 121, 127, 449 N.W.2d 845 (1990). This court’s review of the record, the no-merit report, and Danielson’s response discloses no basis for challenging trial counsel’s performance. We agree with the conclusion in the no-merit report that any claim of ineffective assistance of trial counsel would be without arguable merit.

An independent review of the record discloses no other potential issues for appeal.

Therefore,

IT IS ORDERED that the judgment of conviction is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Dennis Schertz is relieved of further representation of Cole Danielson in this matter. *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*