



OFFICE OF THE CLERK  
**WISCONSIN COURT OF APPEALS**

110 EAST MAIN STREET, SUITE 215  
P.O. BOX 1688  
MADISON, WISCONSIN 53701-1688  
Telephone (608) 266-1880  
TTY: (800) 947-3529  
Facsimile (608) 267-0640  
Web Site: [www.wicourts.gov](http://www.wicourts.gov)

**DISTRICT III**

August 8, 2023

To:

Hon. Ann Knox-Bauer  
Circuit Court Judge  
Electronic Notice

Rose Thums  
Clerk of Circuit Court  
Taylor County Courthouse  
Electronic Notice

Winn S. Collins  
Electronic Notice

James A. Rebholz  
Electronic Notice

Kristopher W. Reid 693008  
New Lisbon Correctional Inst.  
P.O. Box 2000  
New Lisbon, WI 53950-2000

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

---

2021AP1809-CRNM      State of Wisconsin v. Kristopher W. Reid (L. C. No. 2017CF97)

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).**

Kristopher Reid appeals from a judgment convicting him of five counts of possession of child pornography and three drug charges, and from an order denying his postconviction motion for a new trial. Attorney James Rebholz has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2021-22).<sup>1</sup> The no-merit report sets forth the procedural history of the case and addresses the sufficiency of the evidence to support the

---

<sup>1</sup> All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

verdicts, the denial of a pretrial suppression motion, the sentences, and trial counsel's performance. Reid has filed a response to the no-merit report disputing counsel's conclusions on each of these issues. Having independently reviewed the entire record as mandated by *Anders v. California*, 386 U.S. 738, 744 (1967), we conclude that there are no arguably meritorious issues for appeal.

The State charged Reid with ten counts of felony possession of child pornography and one count each of felony possession of methamphetamine, and misdemeanor possession of THC and drug paraphernalia. Prior to trial, the circuit court held a hearing to determine whether to suppress several incriminating statements Reid made to law enforcement officers during the execution of a search warrant.

City of Sparta Police Officer Jenna Lee testified that she and Special Agent Ron Glaman interviewed Reid in his kitchen while other law enforcement officers were searching Reid's residence. Lee and Glaman questioned Reid for about one hour and forty-five minutes, interspersed with breaks during which Reid went outside for a cigarette, made some phone calls, and changed his clothing. Lee acknowledged that she did not advise Reid of his *Miranda* rights to remain silent and to have an attorney present during the interview. *See Miranda v. Arizona*, 384 U.S. 436, 458 (1966). However, Lee did not handcuff or otherwise restrain Reid, and she specifically advised him that he was not under arrest because the investigation was ongoing. The circuit court concluded that there was no *Miranda* violation because Reid's statements were noncustodial.

At trial, Lee testified that she used a law enforcement BitTorrent software program to identify internet protocol (IP) addresses that were downloading or sharing suspected child

pornography files. After flagging files with multiple images depicting what appeared to be prepubescent girls with exposed breasts and vaginal areas, Lee traced the associated IP address to an internet account linked to Reid's residence. Lee then obtained and helped execute a search warrant of Reid's residence. During the search, law enforcement officers recovered drugs and drug paraphernalia, as well as a laptop and two additional hard drives each of which contained suspected child pornography.

Lee also related to the jury several statements that Reid made to law enforcement in the interview during the execution of the warrant. These included that: (1) Reid owned the laptop and hard drives that law enforcement officers recovered from his residence; (2) Reid's laptop and internet access were password protected; (3) Reid had a sexual interest in children that "comes and goes"; (4) Reid had viewed child pornography in the past; (5) Reid liked images of younger children who do not have pubic hair; (6) Reid had smoked marijuana before law enforcement officers arrived; and (7) Reid thought there might be methamphetamine residue in a pipe located in his bedroom.

The State introduced nine images and one video taken from the laptop and hard drives as exhibits. A digital forensic examiner testified (and also authenticated an exhibit showing) that Reid's Google search history included terms such as "young pussy pics," "pedo pics," "underage rule 34," "preteen rule 34," "naked young teen fingering her ass," and "Lesbian Girl slides Hot 11Yo 12Yo." A State Crime Laboratory analyst testified (and also authenticated a report concluding) that substances taken from Reid's residence tested positive for THC and methamphetamine.

Reid did not dispute that each of the images the State introduced from his laptop and hard drives satisfied the definition of child pornography. Rather, Reid's defense was that he did not knowingly possess the images because he downloaded a lot of files that he never actually opened. The defense relied heavily upon the fact that the metadata from the laptop and hard drives did not show that files containing any of the images that were the subject of the charges were opened after they were downloaded.

Reid chose to testify. Reid acknowledged that: (1) he possessed marijuana, methamphetamine, and the drug pipe; (2) he owned the seized laptop and hard drives on which the images and search terms introduced by the State had been found; (3) the terms "11Yo" and "12Yo" were common abbreviations for "eleven years old" and "twelve years old"; and (4) Lee accurately reported the statements Reid had made to her during his interview. Reid further explained that "rule 34" is a part of a joke set of rules of the internet for generating memes stating that "if it exists, there [is] a porn [of it]."

Reid also testified that he viewed and downloaded videos on his laptop using uTorrent software. He stated that descriptions of Torrent files are not always accurate and sometimes you do not know what you have actually downloaded until you open the file. He said that he got "lost in porno" while in a period of substance abuse, and he just clicked on a number of pornography sites and links. He would then go through and sort out the stuff he actually wanted into folders and leave the stuff he did not want.

The jury acquitted Reid on five of the child pornography counts and convicted him of the other five child pornography counts and the three drug charges. At the sentencing hearing, Reid's counsel observed that the child pornography counts of which Reid was convicted

appeared to correspond to the image file names most likely to indicate the presence of child pornography, whereas the file names corresponding to the counts of acquittal were more generic.

After hearing from the parties, the circuit court discussed proper sentencing factors including the gravity of the offenses, the need to protect the public, and the character of the offender. The court observed that it appeared the jury had convicted on the counts where the file names of the images were more likely to have been found by the search terms Reid used. The court then sentenced Reid to concurrent terms of four years' initial confinement followed by eight years' extended supervision on each of the felony child pornography counts, with concurrent jail terms on each of the misdemeanor drug charges.

Reid moved for a new trial on the grounds of ineffective assistance of counsel. Reid asserted that his trial counsel had failed to adequately prepare for the suppression hearing, and counsel should have presented case law compelling the conclusion that Reid was in custody when he made his statements during the execution of the search warrant. Reid also claimed that his trial counsel should have objected to a statement the prosecutor made during closing argument that the State only needed to show that Reid "reasonably should have known what was on the files." The circuit court denied the motion without a hearing, concluding that there was no reasonable probability of a different result even if counsel had taken the actions Reid alleged he should have.

Upon reviewing the record, we agree with counsel's description, analysis, and conclusions that the evidence was sufficient to support the verdicts, that the circuit court properly denied Reid's suppression motion, that the court properly exercised its discretion when sentencing Reid, and that Reid was not prejudiced by any potential deficient performance by his

counsel. In particular, we note that the forensic analysis of the images and search terms found on Reid’s laptop fully support the conclusion—beyond a reasonable doubt—that Reid intentionally downloaded files that he should reasonably have known contained child pornography. It was not necessary to show that Reid opened the files after downloading them to establish that he knowingly possessed them. Given counsel’s adequate discussion of the identified issues, we need not address them further.

Our independent review of the record discloses no other potential issues for appeal. 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 judgment of conviction and postconviction order will be summarily affirmed. *See* WIS. STAT. RULE 809.21.

Upon the foregoing,

IT IS ORDERED that the judgment of conviction and postconviction order are summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney James Rebholz is relieved of any further representation of Kristopher Reid in this matter pursuant to WIS. STAT. RULE 809.32(3).

IT IS FURTHER ORDERED that this summary disposition order will not be published.

---

*Samuel A. Christensen*  
*Clerk of Court of Appeals*