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**DISTRICT III**

November 7, 2023

To:

Hon. Donald R. Zuidmulder  
Circuit Court Judge  
Electronic Notice

John VanderLeest  
Clerk of Circuit Court  
Brown County Courthouse  
Electronic Notice

Timothy T. O'Connell  
Electronic Notice

Jennifer L. Vandermeuse  
Electronic Notice

Kiera Marie Monahan 654523  
Taycheedah Correctional Inst.  
P.O. Box 3100  
Fond du Lac, WI 54936-3100

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

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2022AP2123-CRNM      State of Wisconsin v. Kiera Marie Monahan  
(L. C. No. 2019CF616)

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).**

Counsel for Kiera Marie Monahan has filed a no-merit report concluding that no grounds exist to challenge Monahan's convictions for two counts of first-degree sexual assault of a child under the age of thirteen and one count of second-degree sexual assault of a child under the age of sixteen, all as a repeater. Counsel has likewise concluded that no grounds exist to challenge the order denying Monahan's postconviction motion for plea withdrawal. Monahan was informed of her right to file a response to the no-merit report, and she has not done so. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we

conclude there is no arguable merit to any issue that could be raised on appeal. Therefore, we summarily affirm. *See* WIS. STAT. RULE 809.21 (2021-22).<sup>1</sup>

The State charged Monahan with two counts of first-degree sexual assault of a child under the age of twelve and one count of second-degree sexual assault of a child under the age of sixteen, all as a repeater. The charges stemmed from allegations that three of Monahan's boyfriend's children made against Monahan relating to incidents that occurred in March and April of 2019. The State additionally alleged that Monahan was a repeat offender because she was convicted of a felony in 2017.

Pursuant to a plea agreement, Monahan entered no-contest pleas to two amended charges of first-degree sexual assault of a child under the age of thirteen and the original charge of second-degree sexual assault of a child under the age of sixteen, all as a repeater. By pleading to the amended charges, Monahan no longer faced the mandatory minimum confinement time of twenty-five years that applied to the two charges of first-degree sexual assault of a child under the age of twelve. *See* WIS. STAT. §§ 948.02(1)(b), 939.616(1r). The agreement provided that the State would request a presentence investigation report but would not make a specific sentencing recommendation. Defense counsel remained free to argue at sentencing.

The circuit court ultimately imposed consecutive sentences totaling thirty years of initial confinement followed by thirty years of extended supervision. The court discussed proper sentencing factors, *see State v. Gallion*, 2004 WI 42, ¶¶39-46, 270 Wis. 2d 535, 678 N.W.2d 197, highlighting the need for protection of the public when it considered the circumstances of

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

the offenses. The court emphasized that Monahan, who was with her boyfriend's children, including when he was at work, was a person "trusted with the most vulnerable people in our communities, young children, and then [Monahan] violated that trust in the most horrible kind of way, and frankly the court finds the behavior here horrific and the ripple effect of that."

Monahan filed a postconviction motion for plea withdrawal alleging that she did not understand the plea offer. She claimed that the State had offered to dismiss two of the charges against her in exchange for her guilty plea to one charge and that the offer called for ten years of initial confinement followed by fourteen years of extended supervision. Monahan additionally argued that she did not understand the elements of the crimes to which she pled or that she was waiving her constitutional right to a jury trial where all twelve jurors would have to make a finding of guilt. She argued that her trial counsel was ineffective and that the plea colloquy was defective.

Following an evidentiary hearing where both Monahan's trial counsel and Monahan testified, the circuit court denied the motion. The court found that "Monahan's testimony ... was simply not credible.... To believe any of Monahan's testimony from the evidentiary hearing would require the [c]ourt to disregard the entire plea hearing and trial counsel's testimony," which the court was not willing to do. Regarding Monahan's claim that the plea colloquy was defective, the court found that the record demonstrated Monahan understood the elements of the offenses and that she was giving up her right to a jury of twelve people who would all have to agree that she was guilty.

The no-merit report addresses whether Monahan knowingly, intelligently, and voluntarily entered her no-contest pleas and whether the circuit court properly exercised its sentencing

discretion. Upon reviewing the record, we agree with counsel's description, analysis, and conclusion that any challenge to Monahan's pleas or sentences would lack arguable merit. The no-merit report additionally notes, and we agree, that a challenge to the court's denial of Monahan's postconviction motion seeking plea withdrawal would lack 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. Further, subject to an exception not applicable here, a valid guilty or no-contest plea waives all non-jurisdictional defects and defenses. *See State v. Lasky*, 2002 WI App 126, ¶11, 254 Wis. 2d 789, 646 N.W.2d 53. Our independent review of the record discloses no other potential issues for appeal.

Therefore,

IT IS ORDERED that the judgment and order are summarily affirmed. WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Timothy O'Connell is relieved of his obligation to further represent Kiera Marie Monahan 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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*Samuel A. Christensen*  
*Clerk of Court of Appeals*