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**DISTRICT II**

September 12, 2018

To:

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Circuit Court Judge  
Fond du Lac County Courthouse  
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Fond du Lac, WI 54935

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Clerk of Circuit Court  
Fond du Lac County Courthouse  
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Oshkosh, WI 54903-3310

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

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2017AP928-CRNM      State of Wisconsin v. Michael C. Starry (L.C. # 2013CF424)

Before Neubauer, C.J., Gundrum and Hagedorn, 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).**

Michael C. Starry appeals from a judgment convicting him of second-degree sexual assault of a child contrary to WIS. STAT. § 948.02(2) (2013-14).<sup>1</sup> Starry's appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2015-16) and *Anders v. California*, 386

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

U.S. 738 (1967). Starry received a copy of the report and was advised of his right to file a response. He has not done so. Upon consideration of the report and an independent review of the record as mandated by *Anders* and RULE 809.32, we summarily affirm the judgment because there are no issues that would have arguable merit for appeal. WIS. STAT. RULE 809.21 (2015-16).

After Starry entered a no contest plea, the circuit court sentenced him to a twelve-year term (six years of initial confinement and six years of extended supervision). Starry received sentence credit and was deemed ineligible for the Challenge Incarceration Program and the Substance Abuse Program.

The no-merit report addresses the following possible appellate issues: (1) whether there are any issues with arguable merit arising from the proceedings preceding the entry of Starry's no contest plea;<sup>2</sup> (2) whether Starry's no contest plea was knowingly, voluntarily, and intelligently entered; (3) whether there is any arguable merit to a challenge to a motion filed but later withdrawn (presentence motion to withdraw the no contest plea); and (4) whether the circuit court misused its sentencing discretion. After reviewing the record, we conclude that counsel's no-merit report properly analyzes these issues and correctly concludes that these issues lack arguable merit for appeal.

In addition to the issues discussed above, we have independently reviewed the record. Our independent review of the record did not disclose any potentially meritorious issue for

appeal. Because we conclude that there would be no arguable merit to any issue that could be raised on appeal, we accept the no-merit report, affirm the judgment of conviction and relieve Attorney Erica Bauer of further representation of Starry in this matter.

Upon the foregoing reasons,

IT IS ORDERED that the judgment of the circuit court is summarily affirmed pursuant to WIS. STAT. RULE 809.21 (2015-16).

IT IS FURTHER ORDERED that Attorney Erica Bauer is relieved of further representation of Michael C. Starry in this matter.

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*

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<sup>2</sup> Starry’s no contest plea waived any defects in the proceedings preceding the entry of his no contest plea. Therefore, we do not consider such proceedings further. *State v. Lasky*, 2002 WI App 126, ¶11, 254 Wis. 2d 789, 646 N.W.2d 53 (Ct. App. 2002) (“[N]o contest plea waives all nonjurisdictional defects and defenses, including alleged constitutional violations occurring prior to the plea.”).