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DISTRICT I

November 11, 2025

To:

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Circuit Court Judge
Electronic Notice

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

2024AP368-CRNM State of Wisconsin v. Miguel Velazquez-Lopez
(L.C. # 2020CF4496)

Before Colón, P.J., Donald, and Geenen, 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).

Miguel Velazquez-Lopez appeals from a judgment, entered on a jury's verdicts, convicting him of one count of first-degree child sexual assault by intercourse with a person under age 12 and one count of first-degree child sexual assault by sexual contact with a person under age 13.[1] Appellate counsel, Carl W. Chesshir, filed a no-merit report pursuant to WIS.

[1] Because the no-merit report identifies Velazquez-Lopez as Velazquez, we will do the same.

STAT. RULE 809.32 (2023-24) and ***Anders v. California***, 386 U.S. 738 (1967).[2] Velazquez submitted a response. Upon this court's independent review of the record as mandated by ***Anders***, counsel's report, and Velazquez's response, we conclude that there are no issues of arguable merit that could be pursued on appeal. We therefore summarily affirm the judgment.

Background

The charges against Velazquez involved his step-granddaughter, Danielle.[3] At trial, Danielle testified that her birthday is August 1, 2007. Danielle identified Velazquez as the person who assaulted her. She testified that Velazquez stuck his thumb in her butt when she was "maybe 9, maybe 11."

Danielle additionally testified that Velazquez would touch her breasts when she was "like 10 or like 11 or 9" and would put his fingers down her pants. Detective Jeritt Mees testified that in 2020, shortly after Danielle's allegations were reported to the police, he conducted an investigation. When he interviewed Danielle's grandmother, she told him that a few years earlier Danielle had disclosed that Velazquez was touching her. The family did not report Danielle's allegations to the police at that time.

A jury convicted Velazquez of the following two counts: Count 1, first-degree sexual assault by intercourse with a person under age 12; and Count 2, first-degree sexual assault by sexual contact with a person under age 13. On Count 1, the trial court sentenced him to 25 years

[2] All references to the Wisconsin Statutes are to the 2023-24 version.

[3] For ease of reading and pursuant to the policy underlying WIS. STAT. RULE 809.86(4), we refer to the victim in this case by pseudonym.

of initial confinement and ten years of extended supervision.[4] On Count 2, the court imposed a concurrent sentence of five years of initial confinement and five years of extended supervision. Additional facts will be discussed herein as necessary.

Discussion

Appellate counsel discusses six issues in the no-merit report. Velazquez's response contains a list of ten concerns. Issues that are not specifically discussed in this opinion are deemed to lack sufficient merit to warrant individual attention. *See* ***Libertarian Party of Wis. v. State***, 199 Wis. 2d 790, 801, 546 N.W.2d 424 (1996); ***State v. Waste Mgmt. of Wis., Inc.***, 81 Wis. 2d 555, 564, 261 N.W.2d 147 (1978).

A. Admission of forensic interview of Danielle

The no-merit report analyzes the trial court's decision to admit the forensic interview of Danielle at trial. In a criminal trial, the court "may admit into evidence the audiovisual recording of an oral statement of a child who is available to testify[,]" notwithstanding the fact that the statement is otherwise hearsay. WIS. STAT. § 908.08(1); ***State v. Mercado***, 2021 WI 2, ¶¶40-41, 395 Wis. 2d 296, 953 N.W.2d 337. The purpose of § 908.08 is "to make it easier, not harder, to employ videotaped statements of children in criminal trials and related hearings." ***State v. Snider***, 2003 WI App 172, ¶13, 266 Wis. 2d 830, 668 N.W.2d 784.

Whether to admit or exclude evidence is a matter of trial court discretion. ***State v. James***, 2005 WI App 188, ¶8, 285 Wis. 2d 783, 703 N.W.2d 727. To properly exercise discretion, the

[4] A conviction for Count 1 carried with it a mandatory minimum of 25 years of initial confinement. WIS. STAT. § 939.616(1r).

trial court must examine the relevant facts, apply a proper standard of law, and use a demonstrated rational process to reach a conclusion that a reasonable judge could reach. ***State v. Dorsey***, 2018 WI 10, ¶37, 379 Wis. 2d 386, 906 N.W.2d 158. We do not disturb a trial court's exercise of discretion unless that discretion has been erroneously exercised. ***James***, 285 Wis. 2d 783, ¶8.

Here, the State filed a motion prior to trial seeking to introduce the videotaped forensic interview of Danielle at trial. The trial court looked at WIS. STAT. § 908.08(4) and concluded that the State's motion met "all of the logical criteria set forth." The court noted that the recording had been provided to the defense months ago and the alleged victim "was over the age of 12 but under the age of 16."[5] The court concluded: "The statements the State indicated in their motion, they're all correct. They're correct legally. They're correct under chapter 908. I'm admitting the forensic interview." We agree with the conclusion set forth in the no-merit report that there is no arguable merit to challenging the admission of Danielle's videotaped interview.

B. Exclusion of evidence related to Danielle's father's case

During the same forensic interview, Danielle disclosed that her father had physically and sexually assaulted her in separate incidents.[6] At the start of Velazquez's trial, the State asked the trial court to exclude evidence of Danielle's allegations against her father. The State asserted that such evidence would be inadmissible under the rape shield law and additionally informed

[5] Danielle was 13 when she was interviewed and 14 at the time of trial.

[6] As a result, Danielle's father was charged with crimes in a separate case.

the trial court that trial counsel said he had no plans to introduce such evidence. Trial counsel confirmed that this was true. The court ruled that the parties should stay as far away as possible from any reference to the separate criminal allegations against Danielle's father.

The no-merit report explains:

> Appellate counsel noticed that the facts in this case occurred during the time that [Danielle] was being abused by her father and perhaps a defense for Velazquez could have been that [Danielle] may have attributed the acts of her father to Velazquez. Appellate counsel spoke with Velazquez's trial counsel in regards to the agreement to not reference the father's case. Trial counsel told appellate counsel that evidence from [Danielle]'s father's case would likely cause [Danielle] to be a much more sympathetic victim to the jury and not helpful to Velazquez.
>
> Comments from the trial court seemed to agree with trial counsel's assessment. The State attempted to introduce a video from the father's case to show why [Danielle] would not want to disclose. The court's reaction was, "when I see a father treating his daughter like that, I want to puke. It's going to make the jury want to puke as well, and how is that not unfairly prejudicial against this defendant?" …"[T]he State's argument is it does have to do with [Velazquez]. He is part of [the] same disgusting allegedly family unit that has two males abusing his daughter." Clearly, from the court's perspective, evidence from [Danielle]'s father's case would have been viewed negatively by the jury and unfairly prejudicial towards Velazquez.

(Record citations omitted.)

The no-merit report discusses whether trial counsel was ineffective for entering into an agreement with the State to exclude any reference to Danielle's father's case. A claim of ineffective assistance of counsel must establish that counsel's performance was deficient and that the deficiency prejudiced the defense. ***Strickland v. Washington***, 466 U.S. 668, 687 (1984). We conclude that a claim of ineffective assistance of counsel would lack arguable merit. Trial counsel's agreement with the State cannot be said to be an unreasonable trial strategy. *See* ***State***

v. Breitzman, 2017 WI 100, ¶65, 378 Wis. 2d 431, 904 N.W.2d 93 ("Trial strategy is afforded the presumption of constitutional adequacy."); ***State v. Elm***, 201 Wis. 2d 452, 464-65, 549 N.W.2d 471 (Ct. App. 1996) (counsel's reasonable strategic decision will not support a claim of ineffective assistance of counsel). As such there would be no arguable merit to a claim of ineffective assistance of counsel on this basis.

C. Sufficiency of the evidence

Next, we consider whether Velazquez could challenge the sufficiency of the evidence. We agree with counsel that there is no arguable merit to this issue. An appellate court will not overturn a conviction "unless the evidence, viewed most favorably to the [S]tate and the conviction, is so insufficient in probative value and force that it can be said as a matter of law that no trier of fact, acting reasonably, could have found guilt beyond a reasonable doubt." ***State v. Poellinger***, 153 Wis. 2d 493, 501, 451 N.W.2d 752 (1990). The evidence at trial was sufficient to support the verdicts.

D. Sentencing Discretion

Additionally, we agree with counsel that there is no issue of arguable merit stemming from the trial court's exercises of its sentencing discretion. The trial court considered appropriate sentencing objectives and imposed sentences based on various sentencing criteria applied to the facts of this case. *See* ***State v. Brown***, 2006 WI 131, ¶26, 298 Wis. 2d 37, 725 N.W.2d 262. Because the court properly exercised its discretion, there would be no arguable merit to an appellate challenge to the sentences.

Our independent review of the record reveals no other potential issues of arguable merit.

Therefore,

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

IT IS FURTHER ORDERED that Attorney Carl W. Cheshir is relieved of further representation of Velazquez in this matter. *See* 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