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DISTRICT II

January 21, 2026

To:

Hon. Robert S. Repischak
Circuit Court Judge
Electronic Notice

Amy Vanderhoef
Clerk of Circuit Court
Racine County Courthouse
Electronic Notice

Jeffrey W. Jensen
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Levar C. Hargrove, #491898
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You are hereby notified that the Court has entered the following opinion and order:

2024AP819-CRNM State of Wisconsin v. Levar C. Hargrove (L.C. #2019CF1005)

Before Neubauer, P.J., Gundrum, and Grogan, 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).

Levar C. Hargrove appeals from a judgment of conviction for second-degree sexual assault by use of force and stalking, both as acts of domestic abuse. Hargrove's appointed appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2023-24)[1] and ***Anders v. California***, 386 U.S. 738 (1967). Hargrove has filed a response, and his appointed counsel has filed a supplemental no-merit report. Upon consideration of the no-merit report, the

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

response, and the supplemental no-merit report, and upon our independent review of the record as mandated by ***Anders*** and RULE 809.32, we conclude there is no arguable merit to any issue that could be raised on appeal. We therefore summarily affirm the judgment. *See* WIS. STAT. RULE 809.21(1).

Hargrove was charged and tried for six crimes, but the jury convicted him of only the two crimes identified above.[2] At trial, the victim testified that she dated Hargrove for a short time before they moved in together on approximately July 15, 2019. She stated that on July 21, Hargrove fired a gun from her balcony, placed a bullet casing by her TV, and told her that the next time, the bullet would be in her. The casing remained there until the victim fled with it a week later. She testified that throughout that time, she was uneasy and afraid.

On the morning of July 27, the victim awoke to Hargrove having sex with her. She left the home for the day. When she returned at about 10:15 p.m., she found Hargrove in the residence making a burger. The victim testified Hargrove was drunk, his gun was on a table, and he suggested they would have a problem if she were leaving or cheating on him. The victim also described other threatening statements Hargrove had made to her.

The victim acknowledged initiating sex with Hargrove that night. She testified Hargrove was always talking about trying to get her pregnant, but she was not ready. She insisted that they purchase condoms, and they went to a store together and did so. Hargrove, however, removed condoms three times during the intercourse. Each time, the victim protested and told Hargrove

[2] The complaint charged battery and disorderly conduct in addition to two misdemeanor bail jumping charges. The jury acquitted Hargrove of those offenses.

to stop. When Hargrove removed the condom the final time, he did not put it back on. Instead, without the victim's consent, Hargrove pulled her hair, held her down, and continued until he ejaculated.[3]

The jury also heard from Hargrove, who testified in his own defense and denied threatening or sexually assaulting the victim. At the conclusion of the trial, the jury acquitted Hargrove of all but the second-degree sexual assault and stalking offenses. It also found that Hargrove had not used a dangerous weapon in the commission of those crimes.

At sentencing, the circuit court emphasized the traumatic effects of the brief relationship on the victim and cited the need for punishment to address the gravity of the offense and protect the victim. The court also considered mitigating factors, such as Hargrove's compliance during the considerable time he was released on bond. Ultimately, the court imposed a 12-year sentence on the second-degree sexual assault conviction, bifurcated as 4 years' initial confinement and 8 years' extended supervision. For the stalking conviction, the court imposed a consecutive 18 months' initial confinement followed by 18 months' extended supervision.

The no-merit report concludes Hargrove cannot raise nonfrivolous arguments regarding the denial of various pretrial motions, including Hargrove's request for victim mental health records pursuant to the now-defunct ***Shiffra-Green*** framework[4] and his request to present

[3] DNA consistent with Hargrove's was found on a mons pubis swab from the victim, but there was no male DNA located on a vaginal swab. However, the sexual assault evaluation was not done until several days after the sexual assault.

[4] *See* ***State v. Shiffra***, 175 Wis. 2d 600, 499 N.W.2d 719 (Ct. App. 1993), *abrogated by* ***State v. Green***, 2002 WI 68, 253 Wis. 2d 356, 646 N.W.2d 298, *and overruled by* ***State v. Johnson***, 2023 WI 39, 407 Wis. 2d 195, 990 N.W.2d 174.

evidence that the victim was in another relationship while she was dating Hargrove. Our review of the record satisfies us that the no-merit report thoroughly analyzes these issues and properly concludes any challenge based upon them would lack arguable merit.

The no-merit report also concludes Hargrove cannot raise nonfrivolous arguments regarding the sufficiency of the evidence to support the second-degree sexual assault and stalking convictions, and regarding the circuit court's exercise of its sentencing discretion. Again, our independent review of the record convinces us that the no-merit report thoroughly analyzes these issues and properly concludes any challenge based upon them would lack arguable merit.

Hargrove's response raises concerns regarding the sufficiency of the evidence to support his stalking conviction, the denial of his ***Shiffra-Green*** motion, the length of his sentences, and what he views as "inconsistencies" between the victim's testimony at trial and her testimony during a restraining order hearing. We have addressed some of these arguments above, and our independent review of the appellate record does not persuade us that any of the matters Hargrove raises in his response would support an arguable issue for appeal. Addressing specifically the many testimonial "inconsistencies" Hargrove cites, the standard of review for addressing a sufficiency-of-the-evidence challenge does not permit this court to re-evaluate the jury's credibility assessment. Rather, we "may not overturn a jury's verdict unless the evidence, viewed most favorably to sustaining 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. Beamon***, 2013 WI 47, ¶21, 347 Wis. 2d 559, 830 N.W.2d 681 (quoting ***State v. Poellinger***, 153 Wis. 2d 493, 501, 451 N.W.2d 752 (1990)).

We also agree with the supplemental no-merit report that nothing in Hargrove's response would give rise to an arguable claim of newly discovered evidence or ineffective assistance of counsel.

Hargrove's response also argues he was ordered to serve a sentence greater than the maximum sentence available for stalking. Stalking in the form Hargrove was convicted of is a Class I felony. *See* WIS. STAT. § 940.32(2). The total sentence for a Class I felony cannot exceed three years and six months. WIS. STAT. § 939.50(3)(i). Any argument that Hargrove's three-year stalking sentence exceeded the statutory maximum would be frivolous. Any argument that the court erred by making the sentence consecutive to Hargrove's second-degree sexual assault sentence would also lack arguable merit.

Our review of the record discloses no other potentially meritorious issues for appeal.[5] Therefore,

IT IS ORDERED that the judgment of the circuit court is summarily affirmed. *See* WIS. STAT. RULE 809.21(1).

IT IS FURTHER ORDERED that Attorney Jeffrey W. Jensen is relieved of further responsibility for representing Levar C. Hargrove in this appeal. *See* WIS. STAT. RULE 809.32(3).

[5] During the pretrial proceedings there was some discussion of a motion to dismiss the dangerous weapon penalty enhancers. *See* WIS. STAT. § 939.63. The circuit court concluded any objection to that penalty enhancer was lodged too late. Because the jury found that Hargrove did not use a dangerous weapon during his commission of either crime, there can be no arguable merit to a claim of ineffective assistance of counsel relating to the tardy motion.

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

Samuel A. Christensen
Clerk of Court of Appeals