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DISTRICT IV

July 9, 2026

To:

Hon. Ellen K. Berz
Circuit Court Judge
Electronic Notice

Jeff Okazaki
Clerk of Circuit Court
Dane County Courthouse
Electronic Notice

John Blimling
Electronic Notice

Leonard D. Kachinsky
Electronic Notice

Gerald J. Falkenstein
General Delivery
Sun Prairie, WI 53590

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

2025AP1032-CRNM State of Wisconsin v. Gerald J. Falkenstein (L.C. # 2019CF1442)

Before Blanchard, Kloppenburg, and Nashold, 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).

Attorney Leonard Kachinsky, as appointed counsel for Gerald Falkenstein, filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2023-24) and *Anders v. California*, 386 U.S. 738 (1967).¹ Counsel provided Falkenstein with a copy of the report, and Falkenstein responded to it. We conclude that this case is appropriate for summary disposition. See WIS. STAT. RULE 809.21. After our independent review of the record, we conclude that there is no arguable merit to any issue that could be raised on appeal.

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

After a jury trial, Falkenstein was convicted of one count of repeated sexual assault of a child. The circuit court imposed a sentence of one year of initial confinement and seven years of extended supervision.

The no-merit report addresses whether the evidence was sufficient. We affirm the verdict unless the evidence, viewed most favorably to the State and the conviction, is so insufficient in probative value and force that no reasonable trier of fact could have found guilt beyond a reasonable doubt. *State v. Poellinger*, 153 Wis. 2d 493, 501, 451 N.W.2d 752 (1990). Credibility of witnesses is for the trier of fact, not this court. *Id.* at 504.

Without attempting to recite the evidence in detail here, the testimony of the victim was sufficient. This evidence was not inherently incredible and, if believed by the jury, was sufficient to satisfy the elements of repeated sexual assault of a child. There is no arguable merit to this issue.

Falkenstein's response denies his guilt and attacks the victim's credibility. However, these issues were decided by the jury, and this court's review of them on appeal is limited to the sufficiency of the evidence standard described above. His response does not show that this is an issue with arguable merit.

The no-merit report addresses Falkenstein's sentence. The sentence is within the legal maximum. As to discretionary issues, the standards for the circuit court and this court are well established and need not be repeated here. See *State v. Gallion*, 2004 WI 42, ¶¶17-51, 270 Wis. 2d 535, 678 N.W.2d 197. In this case, the court considered appropriate factors, did not consider improper factors, and reached a reasonable result. There is no arguable merit to this issue.

Our review of the record discloses no other potential issues for appeal.

Therefore,

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

IT IS FURTHER ORDERED that Attorney Kachinsky is relieved of further representation of Falkenstein 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