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DISTRICT I

July 14, 2026

To:

Hon. David A. Feiss
Reserve Judge

John Blimling
Electronic Notice

Anna Hodges
Clerk of Circuit Court
Milwaukee County Safety Building
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Jill Marie Skwor
Electronic Notice

Frederick M. Hister Sr. 359542
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You are hereby notified that the Court has entered the following opinion and order:

2025AP71-CRNM	State of Wisconsin v. Frederick M. Hister, Sr. (L.C. # 2020CF949)
2025AP72-CRNM	State of Wisconsin v. Frederick M. Hister, Sr. (L.C. # 2020CF4255)

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

Frederick M. Hister, Sr. appeals from judgments convicting him of one count of first-degree recklessly endangering safety, one count of being a felon in possession of a firearm, and one count of witness intimidation. His appellate counsel, Jill M. Skwor, 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). Hister received a copy of the report, was advised of his right to respond, and has filed a

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

response. Appellate counsel filed a supplemental no-merit report. We have independently reviewed the record, the no-merit report, Hister's response, and the supplemental no-merit report, as mandated by **Anders**. We conclude that there are no issues of arguable merit that could be pursued on appeal. We therefore summarily affirm. *See* WIS. STAT. RULE 809.21.

On March 2, 2020, the State charged Hister with one count of first-degree recklessly endangering safety and one count of being a felon in possession of a firearm. The charges stemmed from a shooting that took place at a Family Dollar store parking lot in Milwaukee. The complaint alleged that on February 26, 2020, D.J.M. called 911 and reported that he was the backseat passenger in a vehicle driven by his cousin that almost collided with another vehicle. The driver of the other vehicle—later identified as Hister—followed D.J.M.'s cousin's vehicle to a Family Dollar store. When D.J.M. and the other occupants exited the vehicle, Hister rolled down his window, threatened D.J.M. and the other occupants, and displayed a handgun. D.J.M. drew a weapon and shots were exchanged.

While Hister was detained pending his trial, he made several phone calls to a third party. The third party then contacted D.J.M., and offered to help D.J.M. retrieve his confiscated firearm (which he told police he discharged at Hister in self-defense), in an effort to dissuade D.J.M. from testifying against Hister. Hister was subsequently charged with conspiracy to commit felony intimidation of a witness. The charges were joined for trial.

The matter proceeded to trial where multiple witnesses, including law enforcement detectives and investigators, D.J.M., and C.M. (another occupant of the vehicle), all testified. The jury found Hister guilty as charged. The trial court sentenced Hister to a total of 20 years'

incarceration, bifurcated as twelve years of initial confinement and eight years of extended supervision. This no-merit appeal follows.

Appellate counsel’s no-merit report addresses three issues: (1) whether the evidence presented at trial was sufficient to sustain the jury’s verdicts; (2) whether any reversible errors occurred before or during trial; and (3) whether the trial court erroneously exercised its sentencing discretion.

We first address the sufficiency of the evidence. We view the evidence in the light most favorable to the verdict and, if more than one reasonable inference can be drawn from the evidence, we must accept the one drawn by the jury. See *State v. Poellinger*, 153 Wis. 2d 493, 504, 451 N.W.2d 752 (1990). The jury is the sole arbiter of witness credibility, and it alone is charged with the duty of weighing the evidence. *Id.* at 506-07. “[T]he jury verdict will be overturned only if, viewing the evidence most favorably to the [S]tate and the conviction, it is inherently or patently incredible, or so lacking in probative value that no jury could have found guilt beyond a reasonable doubt.” *State v. Alles*, 106 Wis. 2d 368, 376-77, 316 N.W.2d 378 (1982) (citation omitted).

The jury heard from multiple law enforcement officers who detailed their investigation into the shooting. The jury also saw a video recording obtained from the nearby school, a video taken from a pole camera, and photos taken from the processing of Hister’s vehicle, which included photos of shell casings contained therein. D.J.M. and C.M. also testified, describing an altercation with Hister following a near-accident, and stating that Hister followed them to a Family Dollar parking lot where he displayed a gun and threatened them. Both D.J.M. and C.M. testified that D.J.M.—a security guard—was also armed and fired at Hister in self-defense. Both

also testified that after D.J.M. fired his weapon, Hister drove around the store, returned to the parking lot, and began firing out of the passenger window. D.J.M. also testified about two phone calls he received from a third party who asked D.J.M. not to testify against Hister. D.J.M. told the caller he did not care about Hister, he just wanted his \$900 gun—which had been taken into evidence—returned. The caller suggested setting up a payment plan in exchange for D.J.M. avoiding court. An investigator with the Milwaukee County District Attorney’s Office testified that Hister called his son from the jailhouse phone, provided his son with D.J.M.’s phone number, and instructed his son to call D.J.M. This evidence thus supports the verdicts. We agree with appellate counsel’s conclusion that there is no arguable merit to challenging the sufficiency of the evidence.

Appellate counsel next addresses whether any reversible errors occurred before or during trial. Counsel discusses the pretrial hearings, pretrial motions, including a motion for joinder and motions in limine, jury selection, objections, questions from the jurors, Hister’s right to testify, jury instructions, and Hister’s motions for a directed verdict and judgment notwithstanding the verdict. We have independently reviewed the record and agree with counsel’s recitation of the facts, legal analysis, and conclusion that no issues of arguable merit arise from pretrial matters or matters that occurred during trial.

The no-merit report next addresses whether the trial court erroneously exercised its sentencing discretion. See **State v. Gallion**, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197; **State v. Ziegler**, 2006 WI App 49, ¶22, 289 Wis. 2d 594, 712 N.W.2d 76. Our review of the record confirms that the court thoroughly considered the relevant sentencing objectives and factors. The sentence the court imposed is within the range authorized by law, see **State v. Scaccio**, 2000 WI App 265, ¶18, 240 Wis. 2d 95, 622 N.W.2d 449, and is not so excessive so as

to shock the public's sentiment, see ***Ocanas v. State***, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). There would be no arguable merit to a challenge to the court's sentencing discretion.

In his response, Hister contends that he was denied his right to an impartial jury when, following the dismissal of two African-American jurors two days into trial, Hister was tried by an all-white jury. The trial court initially impaneled 14 jurors. On the second day of trial, the trial court received a phone call from Juror Number 2, stating that she did not have childcare arrangements for the day and would not be returning for jury duty. Later that day, Juror Number 23 approached the court deputy and expressed reservations about serving on the jury. The trial court conducted an individual voir dire with the juror, who told the court that he was concerned for his safety. The trial court excused the juror. Hister's counsel moved for a mistrial based on the lack of jury diversity; however, the trial court overruled the objection finding that the lack of diversity was not the fault of the court or the parties. We have reviewed the record and agree with appellate counsel's recitation of the facts and legal analysis as to this issue in both her no-merit report and her supplemental no-merit report. There is no arguable merit to a claim that Hister was not tried by an impartial jury.

Hister also contends that the trial court erroneously precluded the jury from seeing certain reports during deliberations and that he received ineffective assistance of trial counsel. Appellate counsel's supplemental no-merit report thoroughly addresses each of these issues. Upon our review of the record, we agree with appellate counsel's recitation of the facts and legal analysis. There is no arguable merit to any of the claims Hister raises. To the extent Hister raises issues not discussed in this decision, we conclude that they 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), *superseded by*

statute on other grounds, WIS. STAT. § 968.29(3)(b), *as recognized in*, ***State v. Curtis***, 218 Wis. 2d 550, 556, 582 N.W.2d 409 (Ct. App. 1998).

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 Jill M. Skwor is relieved of further representation of Frederick M. Hister, Sr. 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