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DISTRICT II

September 23, 2026

To:

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Circuit Court Judge
Electronic Notice

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Clerk of Circuit Court
Ozaukee County Justice Center
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John Blimling
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Keith J. Risse #616478
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You are hereby notified that the Court has entered the following opinion and order:

2025AP543-CRNM State of Wisconsin v. Keith J. Risse (L.C. #2022CF86)

Before Gundrum, Grogan, and LoCoco, 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).

Keith J. Risse appeals from a judgment convicting him of repeated sexual assault of a child. His appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2023-24)¹ and *Anders v. California*, 386 U.S. 738 (1967). Risse filed several responses. Counsel then filed a supplemental no-merit report. After reviewing the Record, counsel's

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

reports, and Risse's responses, we conclude there are no issues with arguable merit for appeal. Therefore, we summarily affirm the judgment. WIS. STAT. RULE 809.21.

Risse was convicted following a jury trial of repeated sexual assault of a child. He was accused of sexually assaulting his girlfriend's younger sister on at least three occasions when she was between the ages of 13 and 14 years old on and between July 11, 2021 and February 25, 2022. For his actions, the circuit court sentenced Risse to 20 years of initial confinement and 7 years of extended supervision. This no-merit appeal follows.

The no-merit reports address whether the evidence at Risse's trial was sufficient to support his conviction. When reviewing the sufficiency of the evidence, we may not substitute our judgment for that of the jury "unless the evidence, viewed most favorably to the state and the conviction, is so lacking in probative value and force that no trier of fact, acting reasonably, could have found guilt beyond a reasonable doubt." *State v. Poellinger*, 153 Wis. 2d 493, 507, 451 N.W.2d 752 (1990). Our review of the trial transcripts persuades us that the State produced ample evidence to convict Risse of his crime. That evidence included testimony from the victim, who recounted the assaults and was later described by the circuit court as "very credible." Likewise, it included DNA evidence identifying Risse as the source of semen found on the victim's pants and underwear. Additionally, it included an incriminating statement from Risse.²

The no-merit reports also address a number of other issues, including: (1) whether the circuit court properly denied Risse's pre-trial motion for review of the victim's counseling

² In a recorded jail call, Risse asked his mother to Google "how long does a person's DNA stay in their mouth." This was significant as the victim had accused Risse of ejaculating in her mouth during one of the assaults.

records; (2) whether the court properly denied Risse's pre-trial motion to have an out-of-state witness (Risse's brother) appear by Zoom; (3) whether the jury was properly selected and instructed; (4) whether Risse knowingly and voluntarily waived his right to testify; (5) whether the parties' opening statements/closing arguments were proper; (6) whether the testimony of witnesses was proper; (7) whether the court appropriately responded to the jury's question during deliberations;³ and (8) whether the court properly exercised its discretion at sentencing. We agree with counsel that these issues do not have arguable merit for appeal.

As noted, Risse filed several responses to counsel's no-merit report. In them, he touches upon the sufficiency of the evidence, which we will not discuss again. He also presents multiple non-issues in the form of conclusory assertions.⁴ In addition, he accuses his trial counsel of ineffective assistance for the following: (1) failing to secure/subpoena two witnesses (Risse's brother and girlfriend) for trial; (2) failing to ask for a continuance at trial when one of the witnesses (Risse's girlfriend), who had planned to appear voluntarily, could no longer appear due to a work conflict; (3) failing to retain an expert witness for trial; (4) failing to use certain evidence (a portion of a sexual abuse evaluation of the victim and an alleged text message from

³ The jury had one question with two parts: "Why does the statute call for proving 3 instances of assault?" and "What is a person charged with if it is an instance of less than 3 assaults?" The circuit court directed the jury to apply the jury instruction as written.

⁴ For example, Risse asserts that the circuit court erroneously said that he was a "repeater" when this was the first serious charge he faced. Likewise, he asserts that the court "rushed" his trial, which was scheduled for "three" days but took only one. Any reference to Risse being a repeater was simply a reflection of the charge he was facing (repeated sexual assault of a child), not some prior criminal conviction. Meanwhile, the fact that Risse's trial was resolved in one day instead of three does not mean that the trial was improperly rushed. Indeed, at the outset of the trial, the prosecutor told the court, "I think there's a chance we might finish today."

the victim) at trial; (5) failing to introduce letters attesting to Risse's character; and (6) failing to encourage Risse to take a plea deal.⁵

This court normally declines to address claims of ineffective assistance of counsel in the context of a no-merit review if the issue was not raised postconviction in the circuit court. However, because appellate counsel asks to be discharged from the duty of representation, we must determine whether Risse's accusations have sufficient merit to require counsel to file a postconviction motion and request a hearing pursuant to *State v. Machner*, 92 Wis. 2d 797, 285 N.W.2d 905 (Ct. App. 1979). We conclude that they do not.

With respect to the failure to secure/subpoena Risse's brother and girlfriend for trial, it does not appear that those witnesses would have been particularly helpful to the defense. According to the sworn affidavit included in the supplemental no-merit report, Risse's brother told appellate counsel that he only visited Risse three times during the period in question⁶ and never saw anything strange or sexual between Risse and the victim. Meanwhile, Risse's girlfriend told appellate counsel that she was working during the period in question and could not say whether the assaults had occurred. Risse's girlfriend did acknowledge the victim saying that Risse was having sex with her.

With respect to the failure to ask for a continuance at trial when Risse's girlfriend could no longer appear, it is unlikely that such a request would have been granted. When asked by the circuit court what Risse's girlfriend was going to offer as a witness, trial counsel replied that he

⁵ In a single sentence, Risse also faults counsel for failing to "argue for [him] at trial." This claim is belied by the Record.

⁶ The charging period of the offense was from July 11, 2021 to February 25, 2022.

hoped to elicit that the victim lied on occasion and had the door to her bedroom removed as a disciplinary measure. However, both of those facts were admitted by the victim during her cross-examination. Accordingly, trial counsel was forced to concede that the planned testimony of Risse’s girlfriend “would be cumulative, or close to it.” Given that concession, the court was understandably inclined to “move forward without her.”

With respect to the failure to retain an expert witness for trial, it is unclear what Risse thinks such an expert would have said. In any event, per the sworn affidavit in the supplemental no-merit report, trial counsel told appellate counsel that he believed such an expert would have given the State “an opportunity to repeat [its] case on cross-examination of that expert” and make “a weak defense case even weaker.” Because counsel articulated a reasonable strategy for his action, we cannot say that his performance was deficient. See *State v. Libeck*, 2013 WI App 49, ¶25, 347 Wis. 2d 511, 830 N.W.2d 271 (a valid strategy is not deficient performance).

With respect to the failure to use certain evidence at trial, the evidence Risse cites is hardly compelling. Risse claims that a portion of a sexual abuse evaluation of the victim indicates that her hymen was intact; however, that does not mean that the victim did not experience sexual activity.⁷ This is especially true given the fact that the victim accused Risse of assaultive behavior (oral sex and anal sex) that did not involve vaginal penetration. Risse also claims that the victim sent a text message to a friend saying, “even if this did not happen.” This

⁷ See Jonathan Schaffir, M.D., *The Hymen’s Tale: Myths and facts about the hymen*, THE OHIO STATE UNIVERSITY WEXNER MEDICAL CENTER (Feb. 20, 2020), <https://health.osu.edu/health/ob-gyn/myths-and-facts-about-hymen> (last visited August 28, 2026) (“The most common myth around the hymen is that it remains ‘intact’ until it’s broken during vaginal penetration, which renders it a physical marker of virginity. ... The tissue is actually stretchy and flexible, which means it does not necessarily tear with penetration. ... Because of these factors, it’s impossible to tell by examining a woman if she’s a virgin.”).

alleged text message, which neither trial counsel nor appellate counsel is aware of, is simply too vague to have made a difference in the case.

With respect to the supposed failure to introduce letters attesting to Risse's character, Risse's objection is unclear. Such letters would not have been admissible at trial. Although they would have been permitted at sentencing, trial counsel specifically referenced the letters during that proceeding as evidence of Risse's character. Further, Risse provides no persuasive reason why erroneous failure to admit the letters, if it even occurred, would have made a difference. As stated, trial counsel brought the existence of the letters to the attention of the circuit court at sentencing, and the presentence investigation report also included statements from Risse's mother attesting to Risse's character. But the court instead focused on the "very aggravated" nature of the case and Risse's lack of remorse for the victim in sentencing Risse.

Finally, with respect to the failure to encourage Risse to take a plea deal, we note that Risse maintained his innocence at the outset of the case and continued to maintain it after his trial. The decision to take a plea deal or go to trial is the defendant's decision, and there is simply no indication that Risse was ever going to do the former, despite what his trial counsel might have encouraged him to do.

Our review of the Record discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit reports, affirms the judgment of conviction, and discharges appellate counsel of the obligation to represent Risse further in this appeal.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Angela Conrad Kachelski is relieved from further representing Keith J. Risse in this appeal. *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