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**DISTRICT II**

February 19, 2025

To:

Hon. Rebecca L. Persick  
Circuit Court Judge  
Electronic Notice

Ann Auberry  
Electronic Notice

Chris Koenig  
Clerk of Circuit Court  
Sheboygan County Courthouse  
Electronic Notice

Jennifer L. Vandermeuse  
Electronic Notice

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

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2024AP1277-CRNM	State of Wisconsin v. Dean Henry Hoffmann (L.C. #2018CF649)
2024AP1278-CRNM	State of Wisconsin v. Dean Henry Hoffmann (L.C. #2019CF755)

Before Gundrum, P.J., Grogan and Lazar, 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).**

In these consolidated cases, Dean Henry Hoffmann appeals from judgments convicting him of various crimes following a jury trial. Attorney Ann Auberry has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2021-22);<sup>1</sup> *Anders v. California*, 386 U.S. 738, 744 (1967); and *State ex rel. McCoy v. Wisconsin Ct. of Appeals*, 137 Wis. 2d 90, 403 N.W.2d 449 (1987), *aff'd*, 486 U.S. 429 (1988). Hoffmann was sent a copy of the report, and notified by this court and counsel of his right to file a response. No response has

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

been filed.<sup>2</sup> Upon reviewing the entire Record, as well as the no-merit report, we conclude that there are no arguably meritorious appellate issues. Therefore, we summarily affirm the judgments. *See* WIS. STAT. RULE 809.21.

The two cases currently before this court were joined by the circuit court for purposes of trial and sentencing. With respect to the first case, which involved six felony counts with domestic abuse enhancers, the criminal complaint accused Hoffmann of having taken his ex-girlfriend hostage in her own home, tying her up, and beating her to the point where she suffered from a broken nose and other injuries. Hoffmann entered a plea of not guilty by reason of mental disease or defect to all counts in the first case. In a subsequent, related criminal complaint, Hoffman was charged with attempting to solicit a fellow jail inmate to harm or kill his ex-girlfriend to prevent her from testifying as to Hoffmann's behavior at her home. Following a jury trial, Hoffmann was convicted of seven felony counts—kidnapping, false imprisonment, substantial battery, strangulation and suffocation, and felony intimidation of a victim, all as acts of domestic abuse, as well as conspiracy and solicitation related to the intimidation of a witness. The jury found Hoffmann not guilty of three other charged offenses, including two class A felonies and one class F felony.

After the jury found Hoffmann guilty, the first case proceeded to the responsibility phase of the trial. Hoffmann testified that his bipolar disorder rendered him incapable of remembering most of the incident at his ex-girlfriend's house. He further testified that he did not know why he even went to the house in the first place. The court-appointed psychologist who

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<sup>2</sup> This court has received information that Dean Henry Hoffmann is deceased. He passed away while this appeal was pending.

evaluated whether Hoffmann was criminally responsible for the crimes also testified. It was the psychologist's opinion that Hoffmann suffered from a mental disease, but that it did not make Hoffmann unable to appreciate that his conduct was wrong when he held the victim against her will. The psychologist further testified that the many measures that Hoffmann took to avoid detection while committing the offenses indicated that Hoffmann was aware at the time that he was engaged in criminal conduct. After deliberating, the jury found that Hoffmann did not lack substantial capacity either to appreciate the wrongfulness of the conduct or to conform that conduct to the requirements of law. The jury verdict meant that Hoffmann was criminally responsible for his conduct.

After trial but before sentencing, the circuit court granted a motion to withdraw filed by Hoffmann's trial counsel and later appointed another attorney to represent Hoffmann. Hoffmann's new attorney subsequently also sought permission to withdraw. This was the third appointed attorney who moved to withdraw from representation due to issues communicating with Hoffmann and Hoffmann's repeated pro se court filings while represented by counsel. The court granted counsel's motion and found that Hoffmann had forfeited his right to an attorney through his repeated manipulative and combative conduct. Hoffmann therefore represented himself at sentencing. For his actions, the court imposed an aggregate sentence of twenty-eight years of initial confinement and eighteen years of extended supervision. This no-merit appeal follows.

The no-merit report addresses: (1) whether there was sufficient evidence to support the jury's finding of guilt as to Hoffmann's convictions; (2) whether there was sufficient evidence to support the jury's finding that Hoffmann was criminally responsible for his conduct; (3) whether the circuit court's decision to join the two cases was clearly erroneous; (4) whether the court's

ruling that Hoffmann’s statements to law enforcement were admissible at trial was erroneous; (5) whether the court erred in finding that Hoffmann had forfeited his right to counsel; and (6) whether the court properly exercised its discretion at sentencing.

The no-merit report first addresses whether the evidence at Hoffmann’s jury trial was sufficient to support his convictions. 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 Hoffman of his crimes. That evidence included testimony from the victim regarding the incident at her home, from a pizza delivery man who called 911 after noticing the victim’s injuries when he brought pizza to the victim’s front door, from the victim’s sons who had witnessed interactions between Hoffmann and their mother, from forensic nurses who examined the victim in the aftermath of the assault, from Hoffmann’s fellow inmate regarding Hoffmann’s attempts to hire someone to intimidate the victim to prevent her from testifying against Hoffmann, and from members of law enforcement who investigated the events at issue in Hoffmann’s trial. We agree with counsel that a challenge to the sufficiency of the evidence supporting the convictions would lack arguable merit.

The no-merit report also addresses whether the evidence was sufficient to support the jury’s conclusion that Hoffmann should be held criminally responsible for his actions. Our review of the Record satisfies us that the jury appropriately concluded the State had presented sufficient evidence to support its conclusion that Hoffmann should not be relieved of criminal responsibility for his conduct based on mental disease or defect. We are satisfied that this issue

has been correctly analyzed by counsel as lacking arguable merit. We therefore do not address the sufficiency of the evidence at the jury trial further.

Turning to the third issue raised in the no-merit report, counsel analyzes the circuit court's decision to join Hoffmann's two cases for trial. Two or more crimes may be jointly charged in a single complaint or information when they are of the same or similar character, or are based on the same act or transaction, or are based on multiple transactions that are connected together or constitute parts of a common scheme or plan. WIS. STAT. § 971.12(1). A circuit court has discretion to grant severance upon weighing the potential prejudice to the defendant from a joint trial against the public interest in judicial economy. Sec. 971.12(3). After our review of the Record, we agree with counsel's conclusion that there is no arguable merit to this issue.

Similarly, this court is satisfied that the no-merit report correctly analyzes whether the circuit court erred in ruling that Hoffmann's statements to law enforcement were admissible at trial and in finding that Hoffmann had forfeited his right to counsel through his own actions. After our independent review of the Record as it relates to these issues, we agree with counsel that these issues lack any arguable merit. We will not discuss them further.

Finally, as to sentencing, our review of the Record confirms that the circuit court appropriately considered the relevant sentencing objectives and factors. *See State v. Gallion*, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197; *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. The court discussed Hoffmann's character, calling his conduct "planned and calculated" and concluding it warranted the need for community protection. 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, being roughly half of the total imprisonment Hoffmann faced, 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.

Upon our independent review of the Record, we have found no other arguable basis for reversing the judgment of conviction. *See State v. Allen*, 2010 WI 89, ¶¶81-82, 328 Wis. 2d 1, 786 N.W.2d 124. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32. Accordingly, this court accepts the no-merit report and discharges appellate counsel of the obligation to represent Hoffmann further in this appeal.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Ann Auberry is relieved from further representing Dean Henry Hoffmann in this appeal. *See* WIS. STAT. RULE 809.32(3).

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

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*Samuel A. Christensen*  
*Clerk of Court of Appeals*