



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215

P.O. BOX 1688

MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880

TTY: (800) 947-3529

Facsimile (608) 267-0640

Web Site: www.wicourts.gov

DISTRICT IV

August 28, 2025

To:

Hon. Patricia Baker
Circuit Court Judge
Electronic Notice

John Blimling
Electronic Notice

Lisa M. Roth
Clerk of Circuit Court
Portage County Courthouse
Electronic Notice

Megan Elizabeth Lyneis
Electronic Notice

Kerry D. Kluck
2001 Riverview Ave., Trlr. 6
Stevens Point, WI 54481

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

2024AP747-CRNM State of Wisconsin v. Kerry D. Kluck (L.C. # 2022CF232)

Before Kloppenburg, Nashold, and Taylor, 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 Megan Lyneis, appointed counsel for Kerry Kluck, has filed a no-merit report seeking to withdraw as appellate counsel pursuant to WIS. STAT. RULE 809.32 (2023-24)¹ and *Anders v. California*, 386 U.S. 738 (1967). Counsel provided Kluck with a copy of the report, and both counsel and this court advised him of his right to file a response. Kluck has not responded. We conclude that this case is appropriate for summary disposition. *See* WIS. STAT.

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

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.

After a jury trial, Kluck was convicted of one count of stalking and four counts of felony bail jumping. Before trial, Kluck stipulated to the facts supporting the four bail-jumping counts, following a colloquy with the circuit court. Only the stalking count remained to be tried by the jury. The no-merit report addresses whether the evidence presented at trial was sufficient to support the jury's verdict and the judgment of conviction. 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. *Id.* at 504.

Without attempting to recite the evidence in detail here, the testimony of the victim and two of her coworkers, as well as of two law enforcement officers involved with Kluck's arrest, was sufficient. The testimony was not inherently incredible and, if believed by the jury, was sufficient to satisfy the elements of the stalking charge. The stipulated facts were sufficient to satisfy the elements of the four felony bail-jumping charges. Any challenge to the sufficiency of the evidence would be without arguable merit.

The no-merit report also discusses whether the circuit court erroneously exercised its discretion in making its evidentiary rulings. "Evidentiary rulings on the admission and exclusion of evidence are reviewed subject to the erroneous exercise of discretion standard." *State v. Guzman*, 2001 WI App 54, ¶19, 241 Wis. 2d 310, 624 N.W.2d 717. We will not disturb an evidentiary ruling when there is a reasonable basis for the ruling. *Id.* The record shows that

defense counsel objected to testimony elicited by the State on several occasions. On each occasion, the circuit court applied the proper legal standard to the testimony at issue and made a reasonable ruling. There is no arguable merit to this issue.

Finally, the no-merit report also addresses Kluck's sentence. The circuit court withheld sentence and ordered Kluck to serve four years of probation. The sentence imposed was well 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. Any challenge to the circuit court's exercise of sentencing discretion would be without arguable merit.

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 Lyneis is relieved of further representation of Kluck 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