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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](http://www.wicourts.gov)

**DISTRICT II**

May 14, 2025

To:

Hon. Brad Schimel  
Circuit Court Judge  
Electronic Notice

Christopher P. August  
Electronic Notice

Elizabeth Adams  
Juvenile Clerk  
Waukesha County Courthouse  
Electronic Notice

Nikole M. Kane  
Electronic Notice

M.W.S.

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

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2025AP181-NM

State of Wisconsin v. M.W.S. (L.C. #2022JV51)

Before Gundrum, P.J.<sup>1</sup>

**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).**

Michael<sup>2</sup> appeals from an order denying a permanent stay of sex offender registration. He also appeals from an order denying his motion for reconsideration. His appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 and *Anders v. California*, 386 U.S. 738 (1967). Michael was advised of his right to file a response, and he has not responded. After

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<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(e) (2023-24). All references to the Wisconsin Statutes are to the 2023-24 version.

<sup>2</sup> For ease of reading and to protect confidentiality, we use a pseudonym when referring to the juvenile in this case.

reviewing the record and counsel's report, we conclude that there are no issues with arguable merit for appeal. Therefore, we summarily affirm the orders. *See* WIS. STAT. RULE 809.21.

Michael pled no contest to an allegation of third-degree sexual assault pursuant to WIS. STAT. § 940.225(3)(b). At that time, he agreed to have another juvenile matter dismissed and read in. As part of Michael's plea, the State asked the circuit court to defer a ruling on the issue of the sex offender registry until prior to the conclusion of Michael's dispositional order. Approximately eleven months later, the parties appeared for a review hearing to determine whether Michael should register as a sex offender. Ultimately, the court ordered Michael to register as a sex offender for a period of fifteen years. The court also denied Michael's reconsideration motion. This no-merit appeal follows.

The no-merit report addresses whether the circuit court properly exercised its discretion by denying Michael a permanent stay of sex offender registration. WISCONSIN STAT. § 938.34(15m)(bm) requires a court to order sex offender registration for juveniles like Michael, who are adjudicated delinquent for a violation of WIS. STAT. § 940.225(3)(b).<sup>3</sup> However, § 938.34(16) authorizes a court to stay the execution of an order requiring sex offender registration. *State v. Cesar G.*, 2004 WI 61, ¶¶2, 25, 52, 272 Wis. 2d 22, 682 N.W.2d 1. The decision whether to stay registration is a discretionary determination. *Id.*, ¶42. In making its determination, the court considers the seriousness of the offense and the factors enumerated in

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<sup>3</sup> WISCONSIN STAT. § 938.34(15m)(bm) requires registration for certain enumerated offenses "unless the court determines, after a hearing on a motion made by the juvenile, that the juvenile is not required to comply under [WIS. STAT. §] 301.45(1m)." It appears from the record that Michael's offense did not meet the criteria for exemption under § 301.45(1m).

WIS. STAT. §§ 938.34(15m)(c) and 301.45(1m)(e). *Cesar G.*, 272 Wis. 2d 22, ¶¶50, 52. These factors include:

1. The ages, at the time of the violation, of the juvenile and the victim of the violation;
2. The relationship between the juvenile and the victim of the violation;
3. Whether the violation resulted in bodily harm, as defined in s. 939.22(4), to the victim;
4. Whether the victim suffered from a mental illness or mental deficiency that rendered him or her temporarily or permanently incapable of understanding or evaluating the consequences of his or her actions;
5. The probability that the juvenile will commit other violations in the future; and
6. Any other factor that the court determines may be relevant to the particular case.

*Id.*, ¶50. The burden is on the juvenile to prove by clear and convincing evidence that a stay should be granted. *Id.*, ¶51.

Here, the circuit court examined each of the enumerated factors. It observed Michael was 15 and his victims were much younger. The court determined it was “significant” that Michael’s violations involved offending within the family. The court found Michael’s violations resulted in bodily harm as statutorily defined, noting Michael’s young victims described the violations as “painful experiences.” The court stated it was not aware that the victims suffered any mental illness or deficiency that made them more vulnerable. As for the probability that Michael would commit other violations in the future, the court expressed concern about Michael’s recidivism, noting the past is often the best indicator of future risk, there were two victims, and Michael had used threats to coerce their silence. In regard to other factors, the court considered the relatively

short period of supervision, the repeated nature of the violations, the use of force, and Michael's positive progress while on supervision. Ultimately, the court was not satisfied that it would be in the interest of the community and public protection to permanently stay sex offender registration. The court ordered Michael to register as a sex offender for 15 years.

Michael moved for reconsideration. The circuit court denied the motion in a written decision where it further clarified its discretionary decision. The court acknowledged that none of the parties had argued Michael should register as a sex offender and that the State and victims had not taken a position; however, the court explained that the ultimate responsibility rested with the court. The court was also aware of the psychosexual evaluations in the record that indicated Michael was a low risk to reoffend; however, the court explained the evaluations were not dispositive and not sufficiently persuasive given other evidence in the record. The court was also unpersuaded it was improper to consider the read-in offense when determining whether to permanently stay Michael's registration, and it emphasized its ultimate decision was made with knowledge about Michael's supervision history. Finally, even though Michael argued that specific hardships made it unreasonable for him to register, the court found those hardships "minuscule" compared to the harm that could occur if Michael committed another sexual assault.

The record reflects that when denying Michael's request to permanently stay sex offender registration, the circuit court examined the relevant facts, applied the proper legal standard, and used a demonstrably rational process to reach a reasonable conclusion. *See Cesar G.*, 272 Wis. 2d 22, ¶42. We agree with appointed counsel that any challenge to the court's exercise of discretion would be without arguable merit.

Our independent review of the record discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit report, affirms the circuit court orders, and discharges appellate counsel of the obligation to represent Michael further in this appeal.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Christopher P. August is relieved from further representing Michael 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*