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DISTRICT I

September 23, 2025

To:

Hon. Ellen R. Brostrom
Circuit Court Judge
Electronic Notice

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

Christopher P. August
Electronic Notice

John Blimling
Electronic Notice

Moses Howard Burnett 707680
Oshkosh Correctional Inst.
P.O. Box 3310
Oshkosh, WI 54903-3310

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

2024AP605-CRNM State of Wisconsin v. Moses Howard Burnett (L.C. # 2020CF3900)

Before White, C.J., Colón, P.J., and Geenen, J.

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).

Moses Howard Burnett appeals from a judgment, entered upon his guilty pleas, convicting him of three counts of homicide by the intoxicated use of a vehicle. Appellate counsel, Christopher P. August, filed a no-merit report pursuant to *Anders v. California*, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32 (2023-24).¹ Burnett received a copy of the report, was advised of his right to file a response, and has not responded. We have independently reviewed the record and the no-merit report as mandated by *Anders*. We conclude that there are

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

no issues of arguable merit that could be pursued on appeal. We therefore summarily affirm. *See* WIS. STAT. RULE 809.21.

In an amended information, the State charged Burnett with three counts of second-degree reckless homicide; three counts of knowingly operating a motor vehicle while suspended, causing death; three counts of homicide by the intoxicated use of a motor vehicle; and one count of second-degree reckless injury. The charges stemmed from a motor vehicle accident in which Burnett accelerated at a high rate of speed and crashed into another vehicle, causing the deaths of three individuals and injuring another.

Ultimately, Burnett pled guilty to three counts of homicide by the intoxicated use of a motor vehicle. The remaining charges were dismissed and read in. The circuit court imposed a global sentence of 21 years of initial confinement followed by 12 years of extended supervision. The parties stipulated as to restitution. This no-merit report follows.

Appellate counsel's no-merit report addresses two issues: (1) whether Burnett's pleas were knowing, intelligent, and voluntary; and (2) whether the circuit court properly exercised its sentencing discretion.

With regard to Burnett's guilty pleas, our review of the record—including the plea questionnaire/waiver of rights form, the addendum, the jury instructions, and the plea hearing transcript—confirms that the circuit court complied with its obligations for taking guilty pleas, pursuant to WIS. STAT. § 971.08, *State v. Bangert*, 131 Wis. 2d 246, 261-62, 389 N.W.2d 12 (1986), and *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906. These obligations exist specifically to help ensure the validity of any plea. We thus agree with appellate counsel's conclusion in the no-merit report that there is no arguable merit to seeking

plea withdrawal based on a claim that Burnett's pleas were anything other than knowing, intelligent, and voluntary.

With regard to the circuit court's sentencing decision, we note that sentencing is a matter for the circuit court's discretion. *See State v. Gallion*, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197. At sentencing, a court must consider the principal objectives of sentencing, including the protection of the community, the punishment and rehabilitation of the defendant, and deterrence to others. *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. It must also determine which objective or objectives are of greatest importance. *Gallion*, 270 Wis. 2d 535, ¶41. In seeking to fulfill the sentencing objectives, the court should consider several primary factors, including the gravity of the offense, the character of the offender, and the protection of the public, and it may consider additional factors. *State v. Odom*, 2006 WI App 145, ¶7, 294 Wis. 2d 844, 720 N.W.2d 695. The weight to be given to each factor is committed to the court's discretion. *Id.* Our review of the record confirms that the circuit court appropriately considered the relevant sentencing objectives and factors. The resulting sentence was within the potential maximum 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).

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 Christopher P. August is relieved of further representation of Moses Howard Burnett 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