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DISTRICT IV

October 23, 2025

To:

Hon. Josann M. Reynolds
Circuit Court Judge
Electronic Notice

Jeff Okazaki
Clerk of Circuit Court
Dane County Courthouse
Electronic Notice

Katie Babe
Electronic Notice

John Blimling
Electronic Notice

Ronald D. Hendrickson
c/o Lorna Hjortland
702 E. Madison Ave., #448
Milton, WI 53563

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

2024AP1290-CRNM State of Wisconsin v. Ronald D. Hendrickson (L.C. # 2022CF560)

Before Graham, P.J., Blanchard, and Kloppenburg, 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 Katie Babe, appointed counsel for Ronald D. Hendrickson, 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 Hendrickson with a copy of the report, and both counsel and this court advised Hendrickson of his right to file a response. Hendrickson has not responded. We conclude that this case is appropriate for summary

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

disposition. *See* WIS. STAT. 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, Hendrickson was convicted of operating while intoxicated (OWI), contrary to WIS. STAT. § 346.63(1)(a), as a sixth offense, pursuant to WIS. STAT. § 346.65(2)(am)5. The no-merit report addresses whether the evidence presented at trial was sufficient to support the jury's verdict. 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). The credibility of witnesses is to be determined by the trier of fact. *Id.* at 504.

To prove an OWI, the State has to show that a person drove a motor vehicle on a highway, and that the person did so while under the influence of an intoxicant. WIS. STAT. § 346.63(1)(a); WIS JI—CRIMINAL 2669. At Hendrickson's trial, one witness testified to the following: the witness was inside a house when he heard a loud noise; the witness looked out the window and saw an identified vehicle moving back and forth; then the witness went outside and removed Hendrickson from the driver's seat of the vehicle that had apparently backed into the identified vehicle. In addition, the owner of the car that was struck testified that she saw Hendrickson drive halfway down the street before backing into her car. Both of these witnesses, along with a police officer who responded to the scene, testified that Hendrickson appeared intoxicated based on his slurred speech, inability to stand or walk steadily, odor of alcohol, and bloodshot, glossy eyes. The State introduced evidence that a sample of Hendrickson's blood, drawn shortly after the collision occurred, contained 0.282 grams of alcohol per 100 milliliters. This evidence was not inherently incredible and, if believed by the jury, was sufficient to satisfy

the elements of the OWI charge and to support the jury's verdict. There would be no arguable merit to challenging the sufficiency of the evidence.

The no-merit report also addresses Hendrickson's sentence. The circuit court sentenced Hendrickson to 24 months of initial confinement followed by 36 months of extended supervision. The term of initial confinement imposed was between the mandatory presumptive minimum of 18 months and the maximum of five years for a sixth offense OWI. *See* WIS. STAT. § 346.65(2)(am)5; WIS. STAT. § 973.01(2)(b)7. The standards for the circuit court and this court on discretionary issues such as sentencing 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 circuit 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. The circuit court denied Hendrickson's pretrial motion to suppress certain incriminating post-arrest statements that he made to police, rejecting Hendrickson's argument that he made these statements after he requested an attorney in violation of *Miranda v. Arizona*, 384 U.S. 436 (1966). The circuit court made a factual finding that Hendrickson did not make a request for counsel when, in response to the arresting officer's question as to whether Hendrickson would answer questions after being given a *Miranda* warning, Hendrickson said that he would see what the questions were, and "depend[ing] on the questions," then he might "want a lawyer." *See State v. Jones*, 192 Wis. 2d 78, 94, 532 N.W.2d 79 (1995) (the right to counsel is invoked when a suspect expresses a "desire to deal with the police only through counsel"). The statement must be unambiguous in expressing a "desire to have counsel present," and made "sufficiently clearly that a reasonable

police officer in the circumstances would understand the statement to be a request for an attorney.” *Davis v. United States*, 512 U.S. 452, 459 (1994). If the suspect makes an ambiguous or equivocal reference to an attorney, an officer need not stop questioning the suspect or clarify the comment. *Id.* Hendrickson proceeded to answer the officer’s questions. This court concludes that a challenge to the decision denying the suppression motion would be without arguable merit because Hendrickson’s statement mentioning a lawyer did not constitute a request for counsel, but instead showed a willingness to answer questions.

Therefore,

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

IT IS FURTHER ORDERED that Attorney Babe is relieved of further representation of Hendrickson 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