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DISTRICT III

January 27, 2026

To:

Hon. Elizabeth L. Rohl
Circuit Court Judge
Electronic Notice

Kerry Feuerhelm
Clerk of Circuit Court
Pierce County Courthouse
Electronic Notice

John Blimling
Electronic Notice

Megan Elizabeth Lyneis
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Tony Rocha 712625
Prairie Du Chien Correctional
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You are hereby notified that the Court has entered the following opinion and order:

2023AP2116-CRNM State of Wisconsin v. Tony Rocha (L. C. No. 2020CF150)

Before Stark, P.J., Hruz, and Gill, 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).

Tony Rocha appeals from a judgment convicting him, upon his guilty pleas, of one count of intimidating a victim and three counts of battery or threats to a law enforcement officer. Assistant State Public Defender Megan Lyneis has filed a no-merit report seeking to withdraw as appellate counsel. *See WIS. STAT. RULE 809.32 (2023-24).*¹ The no-merit report sets forth the procedural history of the case and addresses the validity of the pleas and sentences. Rocha has filed a response to the no-merit report alleging that: (1) his trial counsel never shared video

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

discovery with him and erroneously told Rocha that there was no video evidence; (2) his trial counsel colluded with the district attorney (“D.A.”) about matters such as whether Rocha’s wife would testify; (3) his trial counsel led him to enter a plea by promising him that he would get probation with programming; (4) the circuit court erroneously characterized the presentence investigation report (“PSI”) to quote Rocha as saying that if police ever came to his house again, he would fight them every time, and Rocha’s trial counsel did not challenge the statement; (5) neither the D.A. nor the circuit court judge ever asked for Rocha’s “side of the story”; (6) the reason Rocha fought with the law enforcement officers was that one of them had thrown his wife across the room onto a couch; (7) the videos of the events have been edited to remove any exonerating evidence; (8) police planted a gun found in Rocha’s residence; (9) Rocha’s daughter lied about the event that precipitated the police contact; (10) the sentences were unduly harsh, and the court should have ordered probation; and (11) he should not have been charged a DNA fee because he had previously given a DNA sample. Having independently reviewed the entire record as mandated by *Anders v. California*, 386 U.S. 738, 744 (1967), we conclude that counsel will be allowed to withdraw, and the judgment shall be summarily affirmed. *See* WIS. STAT. RULE 809.21.

The State charged Rocha with one count of possession of a firearm by an out-of-state felon, one count of intimidating a victim, three counts of battery or threats to a law enforcement officer, one count of physical abuse of a child, one count of strangulation and suffocation, one count of obstructing an officer causing soft tissue injury, one count of misdemeanor battery, one count of mistreating an animal, and two counts of disorderly conduct. At a preliminary hearing, Officer Kevin Moore testified that he and another uniformed officer were dispatched to Rocha’s address in response to a call providing information that an intoxicated Rocha had thrown a dog in

a room where his daughter was sleeping and had then thrown his daughter against a wall and “choked” her with his hands around her throat to the point that she became lightheaded and dizzy.

Rocha’s wife met the officers at the front door and refused them entry. Meanwhile, Rocha paced around inside the residence with clenched fists and eventually charged at Moore and struck him multiple times with a closed fist. After a struggle that lasted about five minutes, Moore and the accompanying officer physically directed Rocha back onto a couch.

During the struggle, additional uniformed officers arrived to help handcuff Rocha, and Rocha struck one of them as well as the officer who had accompanied Moore to the residence. Rocha also made verbal threats to the officers during the encounter, and his daughter reported that Rocha had threatened to “fuck her up” if she got him locked up. As a result of the incident, Moore incurred a sprained knee, a hip impingement, neck soreness, a “floater” in his eye, and some lip bruising.

When interviewed, two of Rocha’s neighbors reported having heard gunshots from the backyard shortly before the incident. Law enforcement officers subsequently recovered a handgun from between the mattresses in Rocha’s bedroom. Based upon Moore’s testimony, the circuit court bound Rocha over for trial.

Rocha eventually pled guilty to one count of intimidating a victim and the three counts of battery or threats to a law enforcement officer. In exchange, the State agreed to dismiss the remaining charges and to request a PSI, with both parties being free to argue at sentencing. The circuit court accepted Rocha’s pleas after conducting a plea colloquy and receiving Rocha’s signed plea questionnaire, and it dismissed the remaining counts.

The PSI and an alternate PSI obtained by the defense set forth Rocha's version of events. Rocha acknowledged he had grabbed his daughter by the neck and pushed her backward after she "popped off with attitude and triggered this him." Rocha claimed that the reason he attacked the law enforcement officers was that they were being "demanding and aggressive" with his wife at the door and that they threw her onto the couch. Rocha asserted that he had a right to defend his wife and his home and that he would do so again. He also claimed that he lost consciousness three times during the fight, at one point waking up to find an officer with a knee on his chest, and that officers ignored his assertions that he could not breathe. Rocha said the gun belonged to someone else, and he denied that it was ever in his room.

The circuit court held a sentencing hearing, at which Rocha exercised his right of allocution. After hearing from the parties, the court discussed proper sentencing factors, including the gravity of the offenses and Rocha's character, and it explained their relation to the court's sentencing goals, including protection of the public. The court then sentenced Rocha to three years' initial confinement followed by three years' extended supervision on each of the four counts of conviction, all to be served concurrently to one another.

Upon reviewing the record, we agree with counsel's description, analysis, and conclusion that the plea colloquy was adequate and that the circuit court properly exercised its sentencing discretion. We will therefore not discuss those issues further. We will briefly address why the issues Rocha raises in his response to the no-merit report also lack arguable merit.

First, Rocha cannot demonstrate prejudice from his counsel's alleged failure to share law enforcement videos of the incident with Rocha before he entered his pleas because there is no indication that there was anything exculpatory on the videos. Given that the videos would not

have provided Rocha any credible reason to proceed to trial, Rocha's failure to view them does not provide grounds for plea withdrawal.

Second, there is nothing improper about defense counsel conferring with the D.A. about the procedural status of a case.

Third, even if Rocha's trial counsel did lead Rocha to believe that he could expect to receive probation, the record shows that the circuit court itself advised Rocha during the plea colloquy that it could sentence Rocha up to the maximum penalty on each charge. Rocha verbally acknowledged to the court that he understood that, and he also signed a plea questionnaire stating that he understood that the court could impose sentences totaling 28 years. On this record, Rocha could not demonstrate that he was prejudiced from his counsel's alleged error when Rocha obtained the correct information from another source. Therefore, Rocha's allegations were insufficient to warrant a plea withdrawal hearing. *See Nelson v. State*, 54 Wis. 2d 489, 497-98, 195 N.W.2d 629 (1972) (no hearing is required when the record establishes that the defendant is not entitled to relief).

Fourth, the record does not support Rocha's claim that the circuit court misquoted the PSI, or that the PSI misquoted Rocha in the manner he asserts. Rather, the court referred to Rocha's willingness to fight law enforcement again "under these same circumstances," which encompassed Rocha's claims about law enforcement's behavior prior to the fight.

Fifth, neither the D.A. nor the circuit court were required to ask Rocha for his version of events. Nonetheless, the circuit court did provide Rocha with an opportunity for allocution, during which Rocha was free to discuss his version of events. Moreover, Rocha's version of events was already before the court from information in both the PSI and the alternate PSI. The

circuit court was not required to *believe* Rocha's version of events to the extent that it was contradicted by the statements of other witnesses and law enforcement videos.

Sixth, by entering guilty pleas, Rocha relieved the State of its burden to prove the offenses and waived his right to present any nonjurisdictional defenses to the charges. *See State v. Kelty*, 2006 WI 101, ¶18 & n.11, ¶34, 294 Wis. 2d 62, 716 N.W.2d 886. Rocha therefore cannot now contend that his version of events would not support the convictions. Similarly, Rocha's seventh, eighth, and ninth assertions—i.e., that the videos were edited, that law enforcement planted the gun, and that his daughter lied, respectively—all constitute factual challenges to the State's evidence that Rocha waived by entering pleas.

Tenth, a sentence may be considered unduly harsh or unconscionable only when it is “so excessive and unusual and so disproportionate to the offense committed as to shock public sentiment and violate the judgment of reasonable people concerning what is right and proper under the circumstances.” *State v. Grindemann*, 2002 WI App 106, ¶31, 255 Wis. 2d 632, 648 N.W.2d 507 (citation omitted). The sentences imposed here were not unduly harsh or disproportionate to the offenses given the amount of violence involved—particularly when they were imposed concurrently.

Finally, Wis. Stat. § 973.046(1r)(a) requires the circuit court to impose a \$250 DNA surcharge for every felony conviction for which the court imposes a sentence or places a defendant on probation—not for each time a DNA sample is taken. The court properly imposed four DNA surcharges here.

Our independent review of the record discloses no other potential issues for appeal. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of

Anders. Accordingly, counsel shall be allowed to withdraw, and the judgment of conviction will be summarily affirmed. *See* WIS. STAT. RULE 809.21.

Upon the foregoing,

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

IT IS FURTHER ORDERED that Assistant State Public Defender Megan Lyneis is relieved of any further representation of Tony Rocha in this matter pursuant to 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*