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DISTRICT II

February 18, 2026

To:

Hon. Eugene A. Gasiorkiewicz
Circuit Court Judge
Electronic Notice

Amy Vanderhoef
Clerk of Circuit Court
Racine County Courthouse
Electronic Notice

John Blimling
Electronic Notice

Leonard D. Kachinsky
Electronic Notice

Tyrese G. Love, #681455
Green Bay Correctional Inst.
P.O. Box 19033
Green Bay, WI 54307-9033

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

2025AP1511-CRNM State of Wisconsin v. Tyrese G. Love (L.C. #2022CF1361)

Before Gundrum, Grogan, and Lazar, 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).

Tyrese G. Love appeals from a judgment, following a jury trial, convicting him of attempted first degree intentional homicide as a repeater with use of a dangerous weapon, first-degree recklessly endangering safety as a repeater with use of a dangerous weapon, and felon in possession of a firearm. His appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2023-24)¹ and *Anders v. California*, 386 U.S. 738 (1967). Love received a

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

copy of the report, was advised of his right to file a response, and has elected not to do so. After reviewing the Record and counsel's report, we ordered counsel to file a supplemental no-merit report addressing certain issues. Upon review, we conclude there is arguable merit to litigate whether Love, who was eligible for a State Public Defender ("SPD") attorney, may challenge the fees and costs associated with court-appointed counsel. Accordingly, we reject the no-merit report, dismiss the appeal without prejudice, and extend the deadline for Love to file a postconviction motion.

The Record reflects that in Love's judgment of conviction, he was ordered to pay \$7,520.00 in attorney fees. However, the Record also reflects that Love was eligible for an SPD attorney. Love made his initial appearance on October 7, 2022. On November 2, 2022, the SPD advised the court that Love was eligible for SPD services and the SPD had made 744 contacts to private bar attorneys, but no attorney agreed to represent Love. On November 30, 2022, the SPD advised the court that Love was eligible for SPD services and the SPD had made 1,732 contacts to private bar attorneys, but no attorney agreed to represent Love. At a hearing on December 1, 2022, a court commissioner called the case, noted appearances, and stated:

So Mr. Love, we're here for a status conference. You had your first appearance in October, two months ago. The public defender has not appointed an attorney to represent you. Based on the fact the public defender hasn't found an attorney to represent you, I find you are eligible for a Racine County appointed attorney.

I realize you're in custody. It's been two months. We need to get this case moving for you and the victim in this matter as well. So I'm going to appoint a Racine County attorney. You do have to make some sort of repayment plan for the Racine County attorney. These attorneys are not free. I realize you're in custody. So I will set a payment plan of \$10 a month starting in ninety days.

I'm going to have to set this out for a status conference. It takes several weeks for Racine County to find an attorney to represent you. So I'll have to give you another status date.

Love replied, “Thank you.”

By order dated December 16, 2025, we directed counsel to file a supplemental no-merit report that addressed, in part, whether there is any issue of arguable merit as to whether Love, who was eligible for an SPD attorney, could challenge the fees and costs associated with court-appointed counsel. We observed the Record did not reflect that Love affirmatively asked for or consented to court-appointed counsel in lieu of counsel appointed by the SPD, or that Love affirmatively consented to the requirement that he reimburse the cost of court-appointed counsel. We also observed that, at sentencing, the circuit court did not mention the fees or costs of court-appointed counsel. Those were added to the judgment of conviction approximately six weeks after sentencing.

In counsel’s supplemental no merit report, counsel submits there is no arguable merit to challenge the imposed attorney fees for court-appointed counsel because WIS. STAT. § 973.06(1)(e) allows circuit courts to assess “[a]ttorney fees payable to the defense attorney by the county or the state.” Counsel also advises this court that even if the SPD secured counsel for Love, Love would have been required to reimburse the agency up to \$1,200.² See WIS. ADMIN. CODE § PD 6.01.³ Counsel asserts “There is no evidence or authority for the idea that Love’s request for counsel in this case was conditioned upon it being through the SPD process (which

² We reject counsel’s assertion that the SPD may have required Love to reimburse it \$7,500 because Love was originally charged with first-degree intentional homicide. See WIS. ADMIN. CODE § PD 6.01 (first-degree intentional homicide is subject to a \$7,500 reimbursement amount). The State amended the complaint the same day it was filed and amended the charge to *attempted* first-degree intentional homicide, which is a class B felony. See WIS. STAT. §§ 940.01(1)(a), 939.50(3)(a), 939.32(1)(a). A class B felony is subject to a reimbursement amount of up to \$1,200. See *id.*

³ All references to the Wisconsin Administrative Code are to the November 2024 Registrar.

also had a repayment requirement) rather than through the court if the SPD was unable to obtain counsel in a reasonable period of time.”

When resolving an appeal under WIS. STAT. RULE 809.32, the question is whether a potential issue would be “wholly frivolous.” *State v. Parent*, 2006 WI 132, ¶20, 298 Wis. 2d 63, 725 N.W.2d 915 (citation omitted). Although we agree with counsel that WIS. STAT. § 973.06(1)(e) allows a circuit court to assess defense attorney fees against the defendant,⁴ counsel’s reliance on that statute does not address the issue of whether an indigent defendant, such as Love, who was eligible for an SPD-appointed attorney should be presumed to consent to reimbursement of the cost of a court-appointed attorney that was sua sponte appointed by a court commissioner. Further, even if we were to assume that Love would have been required to reimburse up to \$1,200 in attorney fees (the reimbursement amount for an SPD-appointed attorney for Love’s case type), Love in this case was assessed \$7,520, which was more than six times the SPD amount. Because we cannot conclude that further proceedings about whether Love can challenge the imposition of \$7,520 in fees and costs associated with court-appointed counsel would be wholly frivolous, we must reject the no-merit report filed in this case.

Therefore,

IT IS ORDERED that the no-merit report is rejected, Attorney Leonard D. Kachinsky’s motion to be relieved of further representation of Tyrese G. Love is denied, and this appeal is dismissed without prejudice.

⁴ Based on the defendant’s financial circumstances at the time of sentencing, WIS. STAT. § 973.06(1)(e) also permits a circuit court to “adjust the amount [of attorney fees] in accordance with [WIS. STAT. §] 977.07(1)(a) and rules promulgated under [WIS. STAT. §] 977.02(3).”

IT IS FURTHER ORDERED that the time for filing a postconviction motion or notice of appeal under WIS. STAT. RULE 809.30(2) is extended to sixty days from the date of this order.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Samuel A. Christensen
Clerk of Court of Appeals