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DISTRICT III

March 3, 2026

To:

Hon. John P. Anderson
Circuit Court Judge
Electronic Notice

John Blimling
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Deidre Zifko
Clerk of Circuit Court
Bayfield County Courthouse
Electronic Notice

Kathleen A. Lindgren
Electronic Notice

Elmer D. Saari, Jr. 342547
Stanley Correctional Institution
100 Corrections Dr.
Stanley, WI 54768

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

2024AP1247-CRNM State of Wisconsin v. Elmer D. Saari, Jr. (L. C. No. 2022CF57)

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).

Elmer Saari, Jr., appeals from a judgment convicting him, upon a no-contest plea, of operating a motor vehicle while under the influence of an intoxicant (OWI), as a seventh offense and as a repeat offender. Attorney Kathleen Lindgren has filed a no-merit report seeking to withdraw as Saari's 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 Saari's plea and sentence. Saari was informed of his right to respond to the no-merit report, but he has not filed a

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

response. Having independently reviewed the entire record as mandated by *Anders v. California*, 386 U.S. 738, 744 (1967), we conclude that there are no arguably meritorious issues for appeal. Therefore, counsel shall be allowed to withdraw, and the judgment of conviction will be summarily affirmed. *See* WIS. STAT. RULE 809.21.

The State initially charged Saari with both OWI and resisting an officer by failing to stop a vehicle. The complaint alleged that a law enforcement officer attempted to detain Saari on several outstanding warrants after observing him swerving on a moped. Saari did not pull over until he reached a residence on the Red Cliff Reservation, where he pulled into a driveway. Saari fell off the moped, became momentarily trapped under the moped after it tipped over, then fled on foot and had to be tased in order to be detained. The officer could smell alcohol on Saari's breath, and Saari admitted to having drunk "half a bottle." The officer then conducted field sobriety tests and observed multiple clues of intoxication.

Saari agreed to plead no contest to the OWI count in exchange for the dismissal, as a read-in offense, of the resisting count and for a joint sentencing recommendation of three years' initial confinement followed by four years' extended supervision. The circuit court accepted Saari's plea after conducting a plea colloquy, reviewing Saari's signed plea questionnaire, and ascertaining that there was a factual basis to support the plea. The court proceeded directly to sentencing after accepting the plea and followed the parties' joint recommendation.

We agree with counsel's analysis and conclusion that Saari has no arguably meritorious basis to challenge his plea or sentence. The circuit court conducted an adequate plea colloquy, and Saari does not assert that he misunderstood the charges or his rights. *See* WIS. STAT. § 971.08(1)(a); *State v. Bangert*, 131 Wis. 2d 246, 389 N.W.2d 12 (1986) (discussing the

requirements for plea colloquies). The initial confinement portion of the sentence was the mandatory minimum and was certainly not unduly harsh, given Saari's criminal record. *See State v. Grindemann*, 2002 WI App 106, ¶31, 255 Wis. 2d 632, 648 N.W.2d 507 (explaining that 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" (citation omitted)). Additionally, a defendant cannot challenge a sentence on appeal that he or she asked the circuit court to impose. *State v. Scherreiks*, 153 Wis. 2d 510, 518, 451 N.W.2d 759 (Ct. App. 1989).

In addition to the issues discussed by counsel, we note that Saari waived the right to personally appear at the plea and sentencing hearing and instead appeared by video. *See State v. Soto*, 2012 WI 93, ¶46, 343 Wis. 2d 43, 817 N.W.2d 848. 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 Attorney Kathleen Lindgren is relieved of any further representation of Elmer Saari Jr. 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