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**DISTRICT III**

March 17, 2026

To:

Hon. James M. Isaacson  
Circuit Court Judge  
Electronic Notice

Nathan A. Liedl  
Clerk of Circuit Court  
Chippewa County Courthouse  
Electronic Notice

John Blimling  
Electronic Notice

Thomas J. Erickson  
Electronic Notice

Dylan Edward Henderson 683588  
Jackson Correctional Inst.  
P.O. Box 233  
Black River Falls, WI 54615-0233

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

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2024AP865-CRNM	State v. Dylan Edward Henderson (L. C. No. 2019CF510)
2024AP866-CRNM	State v. Dylan Edward Henderson (L. C. No. 2020CF411)

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).**

In these consolidated appeals, Dylan Henderson appeals from judgments convicting him, upon no-contest pleas, of delivery of Schedule I or II narcotics, as a second and subsequent offense and first-degree reckless homicide by delivery of drugs, as a party to a crime (PTAC). Attorney Thomas Erickson has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2023-24).<sup>1</sup> The no-merit report sets forth the procedural history of the cases and addresses the validity of Henderson's pleas and sentences. Henderson has filed a

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2023-24 version.

response to the no-merit report, asserting that he wishes to withdraw his pleas because he: (1) is “actual[ly] innocent” of the first-degree reckless homicide charge; (2) was “coerced” into entering the pleas by his trial counsel’s failure to recognize his actual innocence; and (3) did not understand the elements of the first-degree reckless homicide charge. 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 judgments of conviction will be summarily affirmed. *See* WIS. STAT. RULE 809.21.

The State charged Henderson in the first case with one count of delivery of Schedule I or II narcotics, one count of maintaining a drug trafficking place, and one count of possession of heroin with intent to deliver, all as a second or subsequent offense; and ten counts of felony bail jumping. Those charges arose out of information provided by a confidential informant, a controlled drug buy, and a subsequently executed search warrant.

The State charged Henderson in the second case with one count of first-degree reckless homicide by delivery of drugs, as a PTAC; two counts of delivery of methamphetamine, each as a PTAC and as a second or subsequent offense; and two counts of felony bail jumping. Those charges arose from allegations that Henderson, along with Breanna Heuer, sold methamphetamine to Zachary Dietrich. During the transaction, Dietrich paid money to Heuer, and Henderson handed the drugs to Dietrich. Dietrich then shared the methamphetamine with his girlfriend, who overdosed and died. The allegations were supported by a gas station’s security camera footage of the drug buy and DNA from Henderson that was recovered from a baggie of methamphetamine that Dietrich turned over to law enforcement.

Henderson pled no contest to the charges of delivery of Schedule I or II narcotics, as a second or subsequent offense, and of first-degree reckless homicide by delivery of drugs, as a PTAC. In exchange, the State agreed to dismiss and read in all of the other charges in these 2 cases and 3 additional cases, totaling 37 counts. The circuit court accepted Henderson's pleas after conducting an abbreviated plea colloquy, reviewing a signed plea questionnaire with attached jury instructions, and ascertaining that the complaints provided a factual basis for the pleas. The court then ordered a presentence investigation report (PSI).

Henderson admitted having committed the offenses to the PSI author. He stated that he was using illegal drugs at the time and needed the money he received from selling drugs to support his own habit.

At the sentencing hearing, the circuit court noted that it had reviewed two PSIs (including one that had been prepared for a separate case in another county), an alternate sentencing report from the defense, and letters submitted from family members of both Henderson and the victim. The court heard from one of the victim's sisters, one of Henderson's aunts, both counsels, and Henderson himself. Henderson told the court that he "gave a personal amount of drug to a fellow user," who then shared it with someone else who died, but that Henderson had never intended to hurt anyone. He explained that his life had "spiraled into chaos from addiction" following a knee injury.

The circuit court stated that its goals in sentencing Henderson were to protect the community, to punish Henderson while also giving him some rehabilitation in custody, and to deter others. The court discussed how various sentencing factors related to the severity of the offense and Henderson's character affected its sentencing goals. The court emphasized that

Henderson had provided the drugs that resulted in the victim's death in this case only four months after having provided drugs that resulted in someone else's death in another case in Marathon County. The court then imposed three years' initial confinement followed by four years' extended supervision on the narcotics delivery count and six years' initial confinement followed by four years' extended supervision on the first-degree reckless homicide count, to be served concurrently to one another but consecutive to the Marathon County sentence Henderson was already serving. The court also imposed \$17,124.36 in restitution, jointly and severally with other codefendants, and awarded 129 days of sentence credit towards the narcotics delivery charge.

Henderson does not raise any objection to his sentences, and we agree with counsel's analysis and conclusion that there is no arguable basis to challenge them. The sentences imposed were within the maximum available penalties and were not unduly harsh, given the number of read-in offenses and the fact that someone died. *See State v. Grindemann*, 2002 WI App 106, ¶31, 255 Wis. 2d 632, 648 N.W.2d 507 (stating 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)).

Henderson's three plea withdrawal claims all rest on the same false premise—namely, that he could not be convicted of first-degree reckless homicide by delivery of drugs because he did not directly provide drugs to the person who died. The reckless homicide statute, however, applies to whoever causes the death of another human being by delivery of a controlled substance, without any requirement that the delivery be made directly to the victim. WIS. STAT. § 940.02(2)(a). The statute explicitly states that it applies "regardless of whether the ... delivery

is made directly to the human being who dies” and that if the controlled substance “is transferred more than once prior to the death,” each person who delivers the controlled substance is guilty. Sec. 940.02(2)(a)3. Thus, as the jury instructions attached to Henderson’s signed plea questionnaire correctly stated, the elements of the reckless homicide charge that the State would have needed to prove at trial were that: (1) Henderson delivered (i.e., transferred) a substance to another person; (2) the substance was methamphetamine; (3) Henderson knew the substance was methamphetamine; and (4) the victim used the substance delivered by another person to whom Henderson delivered it and died as a result of that use. WIS JI—CRIMINAL 1021.

Based upon Henderson’s own statements to the PSI author, to the circuit court at sentencing, and in his response to the no-merit report, it is undisputed that Henderson delivered methamphetamine to Dietrich, who in turn delivered it to his girlfriend, who used it and died as a result. Those facts satisfy the elements of first-degree reckless homicide by delivery of drugs and provide a factual basis for Henderson’s plea to that charge. Henderson’s assertion that he did not provide the methamphetamine directly to Dietrich’s girlfriend does not establish that he is actually innocent of the offense. It is irrelevant whether Henderson knew that Dietrich would share the drugs because the only knowledge element for the offense was that Henderson knew the substance he was transferring to Dietrich was methamphetamine. It is also irrelevant whether Henderson sold or “gave” the methamphetamine to Dieterich—both types of transfers constitute delivery. It follows that Henderson’s trial counsel did not provide ineffective assistance by failing to raise a defense of actual innocence on Henderson’s behalf.

Finally, we agree with appellate counsel that the circuit court’s plea colloquy may have been deficient because the court relied almost exclusively upon the plea questionnaire without discussing either the elements of the offenses or the rights Henderson would be waiving by

entering pleas. However, Henderson has not alleged facts that demonstrate he actually misunderstood either the elements of the offenses or his rights. *See State v. Bangert*, 131 Wis. 2d 246, 274, 389 N.W.2d 12 (1986). As we have just discussed, Henderson was properly informed that he could be convicted even if he did not directly provide the drugs to the victim.

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 judgments of conviction will be summarily affirmed. *See* WIS. STAT. RULE 809.21.

Upon the foregoing,

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

IT IS FURTHER ORDERED that Attorney Thomas Erickson is relieved of any further representation of Dylan Henderson in these matters pursuant to WIS. STAT. RULE 809.32(3).

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

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*Samuel A. Christensen*  
*Clerk of Court of Appeals*