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DISTRICT I

March 31, 2026

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

2024AP118-CR State of Wisconsin v. Corelius Demario Bunch
(L.C. # 2022CF1817)

Before White, C.J., Colón, P.J., and Geenen, J.

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).

Corelius Demario Bunch appeals a judgment of conviction for first-degree reckless homicide and an order denying postconviction relief. He seeks resentencing, arguing that: (1) the circuit court relied on inaccurate information when it referred at sentencing to a dismissed count as "dismissed and read in;" (2) the State breached the plea agreement by failing to correct the court's statement; and (3) defense counsel was ineffective for failing to object. Based on our

review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2023-24).[1] We affirm.

The State charged Bunch with first-degree reckless homicide and possession of a firearm by a felon. Under the plea agreement, Bunch pled guilty to the homicide charge and the State agreed to dismiss the firearm charge outright. The circuit court accepted the plea and dismissed the firearm charge outright.

At sentencing, the circuit court stated at the outset that the firearm charge "was dismissed and read in," and neither the prosecutor nor Bunch's counsel corrected the statement. The court imposed nineteen years of initial confinement and ten years of extended supervision.

As an initial matter, the State argues Bunch forfeited review of his inaccurate information claim because he did not object at sentencing. *See* ***State v. Coffee***, 2020 WI 1, ¶18, 389 Wis. 2d 627, 937 N.W.2d 579. We do not apply forfeiture here. Bunch's challenge is not simply a routine sentencing objection. It arises from the plea agreement itself and the sentencing court's misstatement regarding the disposition of a dismissed count. A defendant is constitutionally entitled to the benefit of a negotiated plea agreement, and plea agreements are enforced according to their terms. *See* ***State v. Smith***, 207 Wis. 2d 258, 271-72, 558 N.W.2d 379 (1997). Because the defendant's due process rights are implicated, which is a matter of institutional concern for the court, and because Bunch raised the issue promptly in a postconviction motion, we address the merits. *See* ***id.*** at 271.

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

A defendant has a due process right to sentencing on accurate information. ***State v. Tiepelman***, 2006 WI 66, ¶9, 291 Wis. 2d 179, 717 N.W.2d 1. To obtain resentencing, the defendant must prove by clear and convincing evidence both inaccuracy and that the court actually relied on the inaccurate information at sentencing. ***State v. Harris***, 2010 WI 79, ¶¶32, 34, 326 Wis. 2d 685, 786 N.W.2d 409. Actual reliance requires more than a passing reference; it requires explicit attention or specific consideration such that the inaccuracy formed part of the basis for the sentence. ***Coffee***, 389 Wis. 2d 627, ¶38. "If the defendant meets this burden [to prove both inaccuracy and actual reliance], then the burden shifts to the State to prove beyond a reasonable doubt that the error was harmless." ***Id.***

The parties agree the circuit court mistakenly said that the dismissed firearm count was "read in." The question is reliance. Bunch points to the court's opening misstatement and a later remark that he "should not have had that gun on him in the first place." That is not enough under ***Tiepelman***'s reliance requirement.

Nothing in the sentencing remarks shows the court treated the dismissed count as a read-in for sentence-enhancement purposes. The court did not return to the read-in label, discuss read-in consequences, refer to increased penalty exposure tied to a read-in, or order restitution attributable to the dismissed count. Instead, the court's sentencing explanation centered on the homicide, Bunch's character, and the need to protect the public and deter gun violence. A sentencing court may consider firearm-related conduct in evaluating the offense and the defendant's character even if the firearm charge is dismissed outright, and here, the homicide was committed with a gun. *See* ***State v. Frey***, 2012 WI 99, ¶¶77-78, 343 Wis. 2d 358, 817 N.W.2d 436.

Bunch argues that because read-ins are "expected to be considered," labeling the count a read-in establishes reliance. *See* ***id.***, ¶68; WIS. STAT. § 973.20(1g)(b). ***Frey*** describes what a read-in is and how it may be used, but it does not eliminate ***Tiepelman***'s requirement that the defendant prove actual reliance. *See* ***Coffee***, 389 Wis. 2d 627, ¶38.

Because Bunch has not shown actual reliance by clear and convincing evidence, he is not entitled to resentencing. *See* ***Tiepelman***, 291 Wis. 2d 179, ¶26. Even if we assumed reliance, the court's stated sentencing rationale supports harmlessness. *See* ***State v. Travis***, 2013 WI 38, ¶¶23, 73, 347 Wis. 2d 142, 832 N.W.2d 491.

Bunch next argues the State materially breached the plea agreement by failing to correct the circuit court's mistaken statement at sentencing and that trial counsel was ineffective for failing to object. A defendant is entitled to the benefit of a negotiated plea agreement. ***Smith***, 207 Wis. 2d at 271-72. A defendant must prove a material and substantial breach to merit relief. ***State v. Williams***, 2002 WI 1, ¶38, 249 Wis. 2d 492, 637 N.W.2d 733.

The plea term at issue was outright dismissal of the firearm count. That occurred at the plea hearing. The prosecutor did not advocate a sentence inconsistent with the agreement or otherwise argue contrary to the agreement. On this record, the prosecutor's failure to correct the court's isolated misstatement did not amount to a material and substantial breach. At most, it was "small or technical breach." *See* ***State v. Lichty***, 2012 WI App 126, ¶24, 344 Wis. 2d 733, 823 N.W.2d 830.

Because Bunch's defense counsel did not object at sentencing, Bunch also raises a claim of ineffective assistance of trial counsel. Ineffective assistance requires deficient performance and prejudice. ***Strickland v. Washington***, 466 U.S. 668, 687 (1984). Because we conclude that the

prosecutor did not materially and substantially breach the plea agreement, trial counsel cannot be deemed to have performed deficiently for failing to make a meritless objection. *See* ***State v. Stewart***, 2013 WI App 86, ¶20, 349 Wis. 2d 385, 836 N.W.2d 456.

Finally, the circuit court properly denied the postconviction motion without a hearing. A court may do so if the motion fails to allege sufficient material facts that would entitle the defendant to relief, or if the record conclusively demonstrates no entitlement to relief. ***State v. Ruffin***, 2022 WI 34, ¶28, 401 Wis. 2d 619, 974 N.W.2d 432. The record here conclusively demonstrates that Bunch is not entitled to resentencing or other relief.

For all the foregoing reasons,

IT IS ORDERED that the judgment and order are summarily affirmed. *See* WIS. STAT. RULE 809.21.

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

Samuel A. Christensen
Clerk of Court of Appeals