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DISTRICT II

May 6, 2026

To:

Hon. James K. Muehlbauer
Circuit Court Judge
Electronic Notice

Sherry Coykendall
Clerk of Circuit Court
Washington County Courthouse
Electronic Notice

Katie Babe
Electronic Notice

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Nathan Edward Bolinger #270423
Columbia Correctional Institution
PO Box 900
Portage, WI 53901-0900

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

2024AP507-CRNM State of Wisconsin v. Nathan Edward Bolinger
(L.C. #2022CF525)

Before Neubauer, P.J., Gundrum, 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).

Nathan Edward Bolinger appeals from a circuit court judgment convicting him of resisting an officer resulting in substantial bodily harm and possession of methamphetamine, both as a repeat offender. He also appeals from an order denying, in part, his motion for postconviction relief. Attorney Katie Babe has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2023-24);¹ *Anders v. California*, 386 U.S. 738,

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

(1967); and *State ex rel. McCoy v. Wisconsin Ct. of Appeals*, 137 Wis. 2d 90, 403 N.W.2d 449 (1987), *aff'd*, 486 U.S. 429. Bolinger was sent a copy of the no-merit report, and both counsel and this court advised him of his right to file a response. Although Bolinger requested, and this court granted, an extension of time in which to file a response, he has not responded. Upon reviewing the entire record and the no-merit report, we conclude that there are no issues of arguable merit for appeal. We summarily affirm.

The State charged Bolinger with four offenses after a vehicle driven by his co-defendant was stopped by police at night without its headlights or taillights illuminated. According to the complaint, during the course of the traffic stop, Bolinger provided police a false name, fled the scene on foot, resisted police officers—striking one officer in the face and breaking the officer’s nose, and concealed a baggie of methamphetamine in his mouth. Pursuant to an agreement with the State, Bolinger entered a plea of no contest to one count of resisting arrest, resulting in substantial bodily harm, and a guilty plea to possession of methamphetamine. Two other charges were dismissed and read in.

At sentencing, the circuit court sentenced Bolinger to four years of initial confinement and three years of extended supervision on the resisting charge, consecutive to the sentence he was already serving, and to eighteen months of initial confinement and two years of extended supervision on the methamphetamine charge, concurrent to the sentence for resisting. This no-merit appeal follows.

First, we agree with the report that there is no arguable basis for plea withdrawal. In order to withdraw a plea after sentencing, a defendant either must show that the plea colloquy was defective in a manner that resulted in him or her actually entering an unknowing plea, or

demonstrate some other manifest injustice such as coercion, the lack of a factual basis to support the charge, ineffective assistance of counsel, or failure by the prosecutor to fulfill the plea agreement. *State v. Bangert*, 131 Wis. 2d 246, 272-76, 389 N.W.2d 12 (1986); *State v. Krieger*, 163 Wis. 2d 241, 249-51 & n.6, 471 N.W.2d 599 (Ct. App. 1991). There is no indication of any such defect here.

As stated above, Bolinger entered a no-contest plea to one offense and a guilty plea to the other offense to which he pled. The circuit court conducted a standard plea colloquy, inquiring into Bolinger's ability to understand the proceedings and the voluntariness of his plea decision, and further exploring his understanding of the nature of the charge, the penalty range, and other direct consequences of the plea, and the constitutional rights being waived.² See *State v. Hoppe*, 2009 WI 41, ¶18, 317 Wis. 2d 161, 765 N.W.2d 794; and *Bangert*, 131 Wis. 2d at 266-72. The court made sure Bolinger understood that it would not be bound by any sentencing recommendations. In addition, Bolinger provided the court with a signed plea questionnaire. Bolinger indicated to the court that he had indeed signed the form and understood the information explained on that form, and he is not now claiming otherwise. See *State v. Moederndorfer*, 141 Wis. 2d 823, 827-28, 416 N.W.2d 627 (Ct. App. 1987).

Both the circuit court, during the plea colloquy, and the plea questionnaire, which Bolinger affirmed that he read and understood, clearly informed Bolinger of the rights he was

² The circuit court did not provide the required immigration warning. However, harmless error applies to this oversight. See *State v. Reyes Fuerte*, 2017 WI 104, ¶32, 378 Wis. 2d 504, 904 N.W.2d 773. We conclude the error here was harmless because no-merit counsel “does not believe [there is] an issue of arguable merit related to citizenship,” further noting that Bolinger has never faced deportation consequences as a result of any of his prior convictions. Additionally, the immigration consequences of the plea are set forth on the plea questionnaire, which Bolinger admitted he signed and understood.

giving up consistent with his favorable agreement with the State. Such rights plainly include “the right to a trial,” the “right to ... present evidence at trial[,]” and the “right to confront in court the people who testify against [him] and cross-examine them” as to any evidence they present. The court also reviewed all of the elements of each offense to which Bolinger was pleading. Bolinger has not provided any basis on which we could conclude that he did not knowingly, intelligently, and voluntarily waive these and the other enumerated rights when he entered his plea, or that he did not understand the conduct charged. We conclude there would be no arguable merit to a challenge based on these issues.

The circuit court found that facts in the criminal complaint supplied a factual basis for the plea, and there is nothing in the record that leads us to conclude otherwise. In addition, nothing would support a claim of ineffective assistance of trial counsel. Bolinger has not alleged any other facts that would give rise to a manifest injustice. Therefore, the plea was valid and operated to waive all nonjurisdictional defects and defenses, aside from any suppression ruling.³ *State v. Kelty*, 2006 WI 101, ¶18, 294 Wis. 2d 62, 716 N.W.2d 886.

There also is no arguable merit to a claim that the circuit court improperly exercised its sentencing discretion. In imposing sentence, the court considered the seriousness of the offense, Bolinger’s character, and the need to protect the public. See *State v. Gallion*, 2004 WI 42, ¶¶27, 40-44, 270 Wis. 2d 535, 678 N.W.2d 197. Additionally, Bolinger had the opportunity to address the court directly, and did so prior to the court’s imposition of sentence by having his trial counsel read a statement Bolinger had written to the court.

³ Our review of the record and the no-merit report does not indicate that any suppression motions were filed in this case.

The circuit court imposed a sentence of seven years of imprisonment, comprised of four years of initial confinement and three years of extended supervision, consecutive to his current sentence, and three and one-half additional years for the methamphetamine charge, concurrent. Bolinger faced a maximum sentence of 17 and one-half years of imprisonment. *See* WIS. STAT. §§ 939.50(3)(h), 939.50(3)(i), 939.62(1)(b). Under the circumstances, it cannot reasonably be argued that Bolinger’s sentence is so excessive as to shock public sentiment. *See Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975).

Finally, the no-merit report addresses whether there would be arguable merit to a challenge to the circuit court’s denial of Bolinger’s postconviction motion seeking eligibility for substance abuse programming in prison to begin one year before the court originally ordered him to be eligible. We agree with counsel’s analysis of this issue and conclude that there would be no arguable merit to a challenge to the court’s postconviction order.

Upon our independent review of the record, we have found no other arguable basis for reversing the judgment. *See State v. Allen*, 2010 WI 89, ¶¶81-82, 328 Wis. 2d 1, 786 N.W.2d 124. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Katie Babe is relieved from further representing Nathan Edward Bolinger in this appeal. *See* 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