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**DISTRICT II**

May 13, 2026

To:

Hon. Jason A. Rossell  
Circuit Court Judge  
Electronic Notice

Sonya Bice  
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Rebecca Matoska-Mentink  
Clerk of Circuit Court  
Kenosha County Courthouse  
Electronic Notice

John Anthony Ward  
Electronic Notice

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

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2024AP2266-CR

State of Wisconsin v. Kayla A. Parr (L.C. #2021CF883)

Before Neubauer, P.J., 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).**

Kayla A. Parr appeals from her judgment of conviction and an order of the circuit court denying her motion for postconviction relief. Based upon 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).<sup>1</sup> We affirm.

In 2020, Parr was charged with two counts of second-degree reckless homicide in connection with a vehicular incident that took the lives of Parr's passenger and the driver of the

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

other vehicle involved. According to the complaint, Parr was traveling southbound on Green Bay Road in Somers, Wisconsin when she saw a northbound car making a turn onto 35<sup>th</sup> Street. Parr “pressed the gas” rather than the brake, purportedly due to her being “not very familiar with driving manual transmission vehicles[.]” One witness at the scene described seeing Parr’s vehicle strike the other vehicle “at a high rate of speed causing the SUV to flip on its side and roof landing upright on its wheels.” Data from Parr’s vehicle indicated that Parr did not brake prior to the collision and that she was traveling approximately 80 miles per hour one second before the crash. The speed limit is 45 miles per hour at that section of Green Bay Road.

Parr entered a guilty plea to one count of second-degree reckless homicide in connection with the death of Tim Warden, the other driver. The count related to Parr’s passenger Jeremy Sanders’s death was dismissed and read in for the purposes of sentencing. As part of the plea agreement, the State capped its recommendation at ten years of initial confinement.

In the presentence investigation report, Parr explained she decided to drive on Green Bay Road, rather than the interstate, “because she was not comfortable driving her new car on the freeway.” She stated she was “trying to emulate the way ... Sander[s] drove, as a means to impress him” and that “she sped up so they could get to lunch faster.” She admitted to “not paying as much attention as she should have been[.]” The circuit court sentenced Parr to eight years of initial confinement and seven years of extended supervision.

Parr filed a motion for postconviction relief, arguing she should be permitted to withdraw her plea on the ground of ineffective assistance of counsel. Specifically, she argued trial counsel performed deficiently because counsel “did not obtain and review the medical examiner’s report of the autopsy of ... Warden.” Parr asserts she was prejudiced by this omission because if

counsel “had obtained the report and allowed an expert to review the contents, the stunning arterial blockage numbers and absence of internal bleeding would have flagged the report for further review.”

The circuit court held an evidentiary hearing on that motion, at which a defense forensic pathologist, a defense accident reconstruction expert, Parr’s trial counsel, and Parr testified. Trial counsel testified he did not review Warden’s autopsy report because he “didn’t have a strong reason to believe that the car crash wasn’t the cause of death.” He explained “what led up to [Parr’s] decision to plead guilty was ... discussions about the evidence, what would need to be proven, the State’s case, the risks of trying the case, and that being weighed against negotiation and the potential outcome of a plea and a sentencing hearing[.]”

The defense forensic pathologist, based upon his review of Warden’s pathology and autopsy reports, opined the injuries Warden sustained from being struck by Parr “were severe but did not, of themselves, cause [his] immediate death.” He stated Warden “had a fatal cardiac arrhythmia caused by ... [preexisting] heart disease” and that Warden “was essentially dead before he was struck[.]” He explained that “the primary reason that supports the fact that the heart stopped immediately” was the fact that there was “no evidence described in the autopsy that there was bleeding from the injuries incurred[.]” On cross-examination, the pathologist conceded that Warden’s injuries, primarily the separation of his brain from his spinal cord, would have been fatal but testified that these injuries “happened after his heart stopped.”

The defense accident reconstruction expert testified Warden had “six seconds to appreciate [Parr’s oncoming vehicle], gauge its speed, and then had he determined that ... she was approaching that fast, he could have stopped before entering the southbound lanes.” He

stated he did not know if he “agree[d]” that Parr’s speed was a “substantial factor in causing the crash[,]” because “Warden had the last opportunity to appreciate the speed before entering the lanes.” However, he also testified he did not know whether Parr’s failure to brake before the collision was a substantial factor in causing the crash because he “ha[d] not ... performed that calculation.”

Parr confirmed that, if she “[h]ad ... known that [Warden] had a 90 percent blockage in one artery and 70 percent blockage in the other,” she would not have agreed to enter a guilty plea. When asked on cross-examination, Parr explained that the reason she pled guilty was “[b]ecause [counsel] told [her] that it was a high possibility that [she] could get 25 years, and 10 sounded a lot better than 25.”

The circuit court concluded that trial counsel’s failure to review Warden’s autopsy report was deficient performance but that Parr failed to establish prejudice. In a written decision, the court explained that “it is unreasonable to conclude that” Parr “would have been moved to trial based on the possibility that the jury may conclude ... Warden was already dead at the time of the accident[,]” because, “when accepting the pleas [Parr] was focused on limiting her exposure from 25 years” to a lesser sentence, and Parr, if convicted at trial, would still have faced 25 years of incarceration for causing her passenger Sanders’s death, as her “speed and lack of reaction to the accident” was a substantial factor in the crash. Accordingly, the court denied Parr’s motion for plea withdrawal. Parr appeals.

“Whether a defendant received ineffective assistance of counsel is a mixed question of law and fact.” *State v. Jenkins*, 2014 WI 59, ¶38, 355 Wis. 2d 180, 848 N.W.2d 786. We “will uphold the circuit court’s findings of fact, including the circumstances of the case and the

counsel’s conduct and strategy, unless they are clearly erroneous.” *Id.* Whether counsel was ineffective, however, “is a question of law which we determine independently[.]” *Id.*

In order to demonstrate ineffective assistance of counsel, “the defendant must establish that counsel’s performance was deficient and that the deficient performance was prejudicial.” *State v. Breitzman*, 2017 WI 100, ¶37, 378 Wis. 2d 431, 904 N.W.2d 93. “If the defendant fails to satisfy either prong, we need not consider the other.” *Id.*

We conclude the circuit court did not err when it denied Parr’s motion for plea withdrawal, as Parr failed to demonstrate she was prejudiced by trial counsel’s deficient performance.<sup>2</sup> “[W]here the alleged error of counsel is a failure to investigate or discover potentially exculpatory evidence, the determination whether the error ‘prejudiced’ the defendant ... will depend on the likelihood that discovery of the evidence would have led counsel to change his recommendation as to the plea.” *Hill v. Lockhart*, 474 U.S. 52, 59 (1985).

Parr testified her primary consideration in accepting the plea offer was reducing her exposure to a lengthy term of confinement. We agree with the court’s conclusion that “it is unreasonable to conclude that a defendant weighing the risks of a substantial length of incarceration on each of the charges would have been moved to trial based on the possibility that the jury may conclude ... Warden was already dead at the time of the accident.” This is because,

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<sup>2</sup> On appeal, the State does not challenge “[t]he circuit court’s conclusion that counsel’s failure to review Warden’s autopsy report constituted deficient performance[.]” We do not address this prong in our opinion.

even if Warden was dead prior to the collision,<sup>3</sup> this fact does nothing to undermine the ample evidence supporting the count charged in connection to Parr’s passenger’s death.

At sentencing, the circuit court emphasized Parr’s decision to drive “[w]ay in excess of the speed limit” and “to speed in a situation where [she was] going to lose control.” The court found Parr’s explanation that she “didn’t understand” how to operate her standard transmission vehicle in the event of an emergency to be an “aggravating” factor because that fact indicates Parr “should have never been behind the wheel of a [manual] car.” The court also explained that its sentencing decision was intended to serve as “a deterrence to the rest of the community that says, look, if you speed and you are involved [in] a car crash that takes another human life, you will serve time.”

We agree with the State that “[a]ll of those facts would remain true if Parr were to be sentenced only for her passenger’s death.” Parr has not demonstrated that she was prejudiced by trial counsel’s failure to review Warden’s autopsy report because the Record does not support Parr’s assertion that she would have been sentenced differently if sentenced only on the count related to the death of her passenger. “To establish a claim for ineffective assistance of counsel, the defendant has the burden” to show deficient performance and prejudice. *State ex rel. Flores v. State*, 183 Wis. 2d 587, 620, 516 N.W.2d 362. Parr has not met her burden, and we therefore affirm.

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<sup>3</sup> We assume this fact purely for the sake of argument, as we agree with the State’s assessment that “the opinion of the medical examiner who performed the autopsy on Warden” is deserving of significant weight, and the medical examiner’s conclusion directly contradicts the conclusion of the defense medical expert. To wit, separating a brain from a spinal cord is, necessarily, fatal.

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

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*