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DISTRICT II

June 3, 2026

To:

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Circuit Court Judge
Electronic Notice

Michelle Weber
Clerk of Circuit Court
Fond du Lac County Courthouse
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Michael J. Conway
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You are hereby notified that the Court has entered the following opinion and order:

2025AP1178-CR State of Wisconsin v. Cimzeej K. Catron (L.C. #2022CF940)

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

Cimzeej K. Catron appeals from a judgment convicting him on his pleas of no contest to four charges resulting from his fleeing law enforcement in a stolen vehicle that ended up crashing into another vehicle. Catron also appeals from a circuit court order denying, without an evidentiary hearing, his postconviction motion seeking plea withdrawal because he claimed he did not understand the maximum penalty for one of the four offenses to which he pled. 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).[1] We affirm.

A defendant seeking to withdraw a plea after sentencing bears the burden of showing a manifest injustice necessitating plea withdrawal. ***State v. Taylor***, 2013 WI 34, ¶24, 347 Wis. 2d 30, 829 N.W.2d 482. The circuit court's alleged failure to fulfill even one of its duties at the plea colloquy can be the basis for a ***Bangert***[2] plea withdrawal motion. ***Taylor***, 347 Wis. 2d 30, ¶32. However, in order to obtain an evidentiary hearing on such a motion, a defendant first must make a prima facie showing from the plea hearing transcript that the court violated a plea colloquy duty and "allege that the defendant did not, in fact, know or understand the information" he or she shows was omitted. ***Id.*** In addition, the defect or deviation from the court's duties must be other than "insubstantial" to obtain an evidentiary hearing if the plea was entered knowingly, intelligently and voluntarily. ***Id.***, ¶39 (citation omitted). Plea withdrawal is discretionary with the circuit court. ***Id.***, ¶9.

Turning to the facts of this appeal, Catron entered negotiated pleas of no contest to four charges and three other charges were dismissed and read in. As relevant to this discussion, Count One—drive or operate a vehicle without owner's consent (OMVWOC)—was a Class I felony and carried a maximum term of imprisonment of three and one-half years. *See* WIS. STAT. §§ 943.23(3), 939.50(3)(i). The State charged Catron as a repeater, which added four years of initial confinement. *See* WIS. STAT. § 939.62(1)(b). Thus, the total maximum

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

[2] ***State v. Bangert***, 131 Wis. 2d 246, 389 N.W.2d 12 (1986).

imprisonment that Catron faced on Count One was seven and one-half years (bifurcated as five and one-half years of initial confinement and two years of extended supervision). However, during the plea colloquy, the circuit court inadvertently overstated the maximum sentence for Count One by two and one-half years, indicating the maximum penalty was higher than it actually is. The court then imposed a sentence that was below both the misstated maximum and the actual maximum.

Following conviction, Catron sought to withdraw his pleas based solely on the circuit court's misstatement regarding maximum penalties. The court denied Catron's motion. It specifically found that the correct maximum penalties were provided in the plea questionnaire. The court also noted that Catron did not raise any manifest injustice argument. Moreover, and of import to this appeal, the court observed that it had sentenced Catron below the maximums for both the actual and misstated penalties, and found "that the [two and one-half] year difference [between the actual and misstated maximum penalties] is not substantially higher."

One of the circuit court's duties at the plea colloquy is to "[e]stablish the defendant's understanding of the ... range of punishments to which he is subjecting himself by entering a plea[.]" ***Taylor***, 347 Wis. 2d 30, ¶31 (citation omitted). It is clear from the plea colloquy that the court did not correctly describe the penalty for the OMVWOC charge.

As in ***Taylor***, Catron's plea withdrawal motion was denied without an evidentiary hearing. ***Id.***, ¶20. As in ***Taylor***, Catron was informed during the plea colloquy that he faced a penalty different than he actually faced. ***Id.***, ¶28. As in ***Taylor***, the record in this case indicates Catron knew the penalties he faced as a result of his no-contest pleas. ***Id.***, ¶35. The record reveals: (1) the criminal complaint, Information, and Amended Information all contained the

correct maximum penalties for all charges; (2) a page attached to Catron's plea questionnaire states the correct maximum penalties for all counts; and (3) Catron affirmed during the plea colloquy that he understood the plea questionnaire and the maximum penalties he faced as a result of his no contest pleas, and he was satisfied with his attorney's performance. Catron's counsel also affirmed that she was satisfied that Catron understood the consequences of his decision to plead no contest, which would include the maximum exposure he faced by pleading. Finally, Catron does not explain why he would not have pled to OMVWOC if he had known the actual maximum he faced was lower than what he was mistakenly told during the colloquy.

To conclude that Catron was not aware of the penalties he faced at the time he pled no contest, we would have to assume that the record contains misrepresentations by counsel and Catron and the plea-related documents and the transcript of the plea colloquy do not say what they say in relation to the maximum potential penalties. *See* ***id.***, ¶39. "We do not embrace a formalistic application of the ***Bangert*** requirements that would result in the abjuring of a defendant's representations in open court for insubstantial defects." ***Taylor***, 347 Wis. 2d 30, ¶39 (citation omitted). The record supports a "reasonable conclusion" that Catron understood the penalties he faced. ***Id.***, ¶41 (citation omitted). The insubstantial misstatement by the circuit court during Catron's plea colloquy does not undermine the totality of the record, which demonstrates that Catron's no-contest pleas were knowingly, intelligently, and voluntarily entered. ***Id.***, ¶39.

We affirm the judgment of conviction and the circuit court's discretionary denial of Catron's plea withdrawal motion without an evidentiary hearing.[3]

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 this summary disposition order will not be published.

Samuel A. Christensen
Clerk of Court of Appeals

[3] *See* ***State v. Trecroci***, 2001 WI App 126, ¶45, 246 Wis. 2d 261, 630 N.W.2d 555 (we may affirm a circuit court's ruling on different grounds).