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DISTRICT III

June 23, 2026

To:

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Circuit Court Judge
Electronic Notice

Cherie Norberg
Clerk of Circuit Court
Eau Claire County Courthouse
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John Blimling
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Jeremy Newman
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Adam T. Hays 467427
New Lisbon Correctional Inst.
P.O. Box 2000
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You are hereby notified that the Court has entered the following opinion and order:

2024AP2439-CRNM State of Wisconsin v. Adam T. Hays
2024AP2440-CRNM (L. C. Nos. 2020CF1027, 2020CF1293)

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).

Adam Hays appeals from judgments sentencing him to prison following the revocation of his probation on convictions for forgery, a second or subsequent offense of possession with intent to deliver methamphetamine (>10-50g), and a second or subsequent offense of possession with intent to deliver THC (<=200g), each as a repeat offender. Assistant State Public Defender Jeremy Newman has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS.

STAT. RULE 809.32 (2023-24).¹ The no-merit report addresses the validity of the sentences and the circuit court’s exercise of its sentencing discretion. Hays was sent a copy of the report, and has filed two responses, asking this court to: (1) reduce the length of his sentence to be more in line with other cases; (2) lift a no-contact provision; (3) grant him a resentencing hearing based upon the circuit court’s reference to Hays having a personality disorder; and (4) provide him with access to treatment for PTSD. Having independently reviewed the entire record as required by *Anders v. California*, 386 U.S. 738, 744 (1967), we conclude that there are no arguable 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.

We first note that an appeal from a sentence following revocation does not bring an underlying conviction before this court. *State v. Drake*, 184 Wis. 2d 396, 399, 515 N.W.2d 923 (Ct. App. 1994). Nor can Hays challenge the validity of any probation revocation decision in this proceeding. *See State ex rel. Flowers v. DHSS*, 81 Wis. 2d 376, 384, 260 N.W.2d 727 (1978) (probation revocation is independent from the underlying criminal action); *see also State ex rel. Johnson v. Cady*, 50 Wis. 2d 540, 550, 185 N.W.2d 306 (1971) (judicial review of probation revocation is by way of certiorari to the court of conviction). The only potential issues before us in these appeals would arise from the circuit court’s imposition of sentence following revocation.

Our review of a sentence determination begins “with the presumption that the [circuit] court acted reasonably, and the defendant must show some unreasonable or unjustifiable basis in

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

the record for the sentence.” *State v. Krueger*, 119 Wis. 2d 327, 336, 351 N.W.2d 738 (Ct. App. 1984). Here, we agree with counsel’s analysis and conclusion that any challenge to Hays’ sentences would lack arguable merit.

The record shows that Hays was afforded the opportunity to comment on the revocation materials and to address the circuit court both personally and by counsel prior to sentencing. The court noted that Hays’ criminal history had progressed from drug possession and paraphernalia-type charges to delivery and trafficking-type charges and his history also included a number of violent offenses. The court viewed that history as indicative of some sort of personality defect or disorder in addition to drug addiction. The court concluded that a lengthy period of incarceration was necessary, both to protect the public and to provide an opportunity for rehabilitative treatment.

The circuit court sentenced Hays to concurrent terms of three years’ initial confinement followed by three years’ extended supervision on the forgery count, ten years’ initial confinement followed by ten years’ extended supervision on the methamphetamine count, and three years’ initial confinement followed by two years’ extended supervision on the THC count. The court subsequently amended the judgments to award 325 days of sentence credit on each count. The judgments also prohibited Hays from having contact with Karyn Ward or any known drug dealers or users except in a therapeutic setting and required him to follow any programming or other conditions of supervision set forth by his agent.

The components of the bifurcated sentences did not exceed the maximum available penalties for the underlying offenses, without even applying the enhancers for second and subsequent offenses and habitual criminality. *See* WIS. STAT. §§ 943.38(2) (classifying forgery

as a Class H felony); 973.01(2)(b)8., (d)5. (providing maximum terms of 3 years' initial confinement and 3 years' extended supervision for a Class H felony); 961.41(1m)(e)3. (classifying possession with intent to deliver >10-50g of methamphetamine as a Class D felony); 973.01(2)(b)4., (d)3. (providing maximum terms of 15 years' initial confinement and 10 years' extended supervision for a Class D felony); 961.41(1m)(h)1. (classifying possession with intent to deliver <=200g of THC as a Class I felony); 973.01(2)(b)9., (d)6. (providing maximum terms of 1.5 years' initial confinement and 2 years' extended supervision for a Class I felony). The court rationally explained why it imposed the sentences based upon standard sentencing factors. *See generally State v. Gallion*, 2004 WI 42, ¶¶39-46, 270 Wis. 2d 535, 678 N.W.2d 197.

While the sentences were significant, they were not unduly harsh given Hays' extensive criminal history, the fact that they were imposed concurrently, and the fact that the circuit court did not apply additional time for the penalty enhancers. *See generally State v. Grindemann*, 2002 WI App 106, ¶31, 255 Wis. 2d 632, 648 N.W.2d 507 (discussing the standard for unduly harsh sentences). Hays' extensive criminal history also explains why the sentences may have been longer than the sentences imposed for similar conduct in some other cases. The no-contact provision with Ward was justified because she was a co-defendant in one of his cases.

In context, it is clear that the circuit court's comment about Hays having a personality defect or disorder was not referring to any official psychological diagnosis having been made, but rather the court's own view as to what Hays' extensive criminal history said about his character. This was not inaccurate information requiring resentencing; it was an expression of the court's opinion. As to whether Hays' could benefit from mental health treatment, the court properly left that determination up to Hays' supervision agent, who would be in a better position to evaluate Hays' needs and the available resources.

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* and WIS. STAT. RULE 809.32.

Accordingly,

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

IT IS FURTHER ORDERED that Assistant State Public Defender Jeremy Newman is relieved of any further representation of Adam Hays in these matters pursuant to 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