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DISTRICT IV

July 2, 2026

To:

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Circuit Court Judge
Electronic Notice

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

2023AP417-CRNM State of Wisconsin v. Michael Lynn Samplawski
(L.C. # 2020CF101)

Before Graham, P.J., Blanchard, and Kloppenburg, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authoriy, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Attorney Jefren Olsen, as appointed counsel for Michael Samplawski, filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2023-24)[1] and ***Anders v. California***, 386 U.S. 738 (1967). Olsen was later replaced as counsel by Kelsey Loshaw. Counsel provided Samplawski with a copy of the report, and Samplawski has responded. We conclude that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. After our independent

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

review of the record, we conclude that there is no arguable merit to any issue that could be raised on appeal.

Samplawski pled guilty to one count of second-degree sexual assault of a child and one count of child enticement. The circuit court imposed concurrent sentences, with the longer sentence consisting of ten years of initial confinement and seven years of extended supervision.

The no-merit report addresses whether Samplawski's pleas were entered knowingly, voluntarily, and intelligently. In some respects, the plea colloquy sufficiently complied with the requirements of ***State v. Brown***, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906, and WIS. STAT. § 971.08. However, in other respects the circuit court arguably failed to provide necessary information or relied on mere affirmative responses, specifically as to the elements of the offense and rights being waived. *See* ***State v. Howell***, 2007 WI 75, ¶¶53-54, 301 Wis. 2d 350, 734 N.W.2d 48 (defendant's mere affirmative response is inadequate, as is a statement from counsel that counsel has reviewed the elements, without a summary of the elements or detailed description of the conversation); ***State v. Hoppe***, 2009 WI 41, ¶¶24-43, 317 Wis. 2d 161, 765 N.W.2d 794 (although the circuit court may use the plea questionnaire to assist in fulfilling plea colloquy duties, it may not use the questionnaire as a substitute for a substantive colloquy and, instead, "the plea hearing transcript must demonstrate that the circuit court used a substantive colloquy to satisfy each of the duties" required).

However, even if Samplawski's plea colloquy was defective in these respects, to obtain an evidentiary hearing he must also allege that he did not know or understand the information that should have been provided at the plea hearing. ***State v. Bangert***, 131 Wis. 2d 246, 267-79, 389 N.W.2d 12 (1986). Here, the no-merit report states that "undersigned counsel is not aware of any information to support an allegation that Samplawski's pleas were not knowingly,

voluntarily, or intelligently entered." We understand this to be a statement that former counsel did not believe that he could make a nonfrivolous allegation that Samplawski did not know or understand any of the required information.

The question then becomes whether Samplawski's response to the no-merit report disputes that point and shows a basis for Samplawski to make the necessary allegation. As discussed at the end of this summary order, Samplawski's response substantially exceeds the permitted length limit. Nonetheless, despite its excessive length, we have reviewed the entire response for the necessary allegations related to the charges to which he pled guilty, and we do not find any clear statement that he did not understand relevant information. Accordingly, we conclude that there is no arguable merit to a plea withdrawal motion based on the potential plea colloquy defects.

The no-merit report addresses Samplawski's sentences. As explained in the no-merit report, the sentences are within the legal maximum. As to discretionary issues, Samplawski filed a postconviction motion arguing that the circuit court erred by "giving too much weight to the age at which sex offender risk generally declines without also considering the risk-reducing effects of (a) the intensive treatment Mr. Samplawski will be receiving and (b) his maturing more fully into adulthood in his late 20s." The circuit court denied the motion.

Without attempting here to describe the circuit court's sentencing rationale in detail, we are satisfied that the court did not erroneously exercise its discretion in the manner argued by Samplawski. There is no arguable merit to this issue.

Beyond the issue raised in the postconviction motion, the standards for the circuit court and this court are well established and need not be repeated here. *See* ***State v. Gallion***, 2004 WI 42, ¶¶17-51, 270 Wis. 2d 535, 678 N.W.2d 197. In this case, the court considered appropriate

factors, did not consider improper factors, and reached a reasonable result. There is no arguable merit to this issue.

As to restitution, at sentencing the circuit court asked defense counsel if there was agreement with the State's restitution request or whether a hearing would be needed, and counsel asked for a week to request a hearing if needed. The court granted that request and said that if no hearing was requested, restitution would be ordered as requested by the State. The record does not show that any hearing was requested or occurred, and the judgment of conviction included restitution. The no-merit report concludes, based on case law, that the defense's apparent silence as to a hearing was a constructive stipulation to restitution.

While that may be true, the silence could also have been the result of an error by trial counsel. This raises a question as to whether there is a basis for a claim of ineffective assistance of counsel. To establish ineffective assistance of counsel, a defendant must show that counsel's performance was deficient and that such performance prejudiced his defense. ***Strickland v. Washington***, 466 U.S. 668, 687 (1984).

The no-merit report states that former appellate counsel was "not aware of any basis for an objection" to the requested restitution. In Samplawski's response to the no-merit report, he states that "there was supposed to be a restitution hearing in a week, but defense counsel said nothing to the [circuit] court or" to Samplawski. This might be construed as an allegation that Samplawski asked for a hearing, but that his attorney failed to inform the court. However, Samplawski does not identify any specific issue that he would have raised in opposition to the restitution request that would have resulted in a different restitution outcome. As a result, he has failed to show an arguable basis to allege that he was prejudiced by the lack of a restitution hearing.

We now briefly address the nature of Samplawski's response and additional issues he attempts to identify in the response. This court twice denied his requests to file a response in excess of the fifty-page limit provided in WIS. STAT. RULE 809.32(1)(e). Despite those denials, Samplawski filed a seventy-seven-page response. In addition, although that page limit for a document using a monospaced font also contemplates the use of double-spacing, Samplawski's response appears to use a spacing of less than that. As a result, Samplawski's response is far in excess of the permitted length.

Because of the excessive length of the response, we decline to provide here an individual discussion of each issue raised in the response, but we have considered all of the issues he attempts to raise and we conclude that none have arguable merit. Many of the issues lack arguable merit because they were waived by his guilty pleas or relate to charges that were dismissed, and the rest are insufficient for other reasons.

Our review of the record discloses no other potential issues for appeal.

Therefore,

IT IS ORDERED that the judgment of conviction and order denying postconviction relief are summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Loshaw is relieved of further representation of Samplawski in this matter. *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