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DISTRICT II

August 12, 2026

To:

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Circuit Court Judge
Electronic Notice

John Blimling
Electronic Notice

Monica Paz
Clerk of Circuit Court
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Marcella DePeters
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Timothy F. Davis #191014
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You are hereby notified that the Court has entered the following opinion and order:

2025AP132-CRNM State of Wisconsin v. Timothy F. Davis (L.C. #2021CF853)

Before Lazar, P.J., Grogan, and LoCoco, 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).

Timothy F. Davis appeals from a judgment of conviction entered upon his guilty pleas. His appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2023-24)¹ and *Anders v. California*, 386 U.S. 738 (1967). Davis received a copy of the report and was advised of his right to file a response. Davis did not respond. Upon consideration of the no-merit report and an independent review of the Record, we conclude there are no issues with arguable merit for appeal. We summarily affirm. See WIS. STAT. RULE 809.21.

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

The State charged Davis with three Class B felonies for the sexual assaults of two girls under the age of 13 after Davis allegedly sexually abused the two young girls multiple times during a specified time period. One victim was his granddaughter; the other, a family friend. One of the girls was age 11 at the time of the assaults, and the other was 8 or 9.

Pursuant to an agreement with the State, Davis entered guilty pleas to two counts of repeated sexual assault of a child under the age of 13, a Class B felony. *See* WIS. STAT. § 948.025(1)(b). At sentencing, the State requested 7 to 9 years of initial confinement and 3 to 4 years of extended supervision for each count, in keeping with its agreement to embrace the PSI-writer's recommendation. The defense requested 4 to 5 years of initial confinement, and it made no request as to the length of extended supervision. The circuit court sentenced Davis to 15 years of initial confinement and 10 years of extended supervision for each count to which he pled. The court ordered the sentences to run consecutively. The court also granted 545 days of sentence credit. 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, 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, Davis entered a guilty plea to two of the charged offenses. The other Class B-felony count was dismissed and read in. The circuit court conducted a standard plea

colloquy, inquiring into Davis' 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. 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. In addition, Davis provided the court with a signed plea questionnaire that was printed in English. Davis indicated to the court that he had indeed signed the form and understood the information it provided, 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 Davis affirmed that he read and understood, informed Davis of the rights he was giving up pursuant to his favorable agreement with the State. Such rights 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. Davis has not provided any basis on which we could conclude that he did not knowingly, intelligently, and voluntarily waive these rights when he entered his plea. We conclude there would be no arguable merit to a challenge based on these issues.

The circuit court found that facts in the amended criminal complaint supplied a factual basis for the plea, and there is nothing in the Record or the no-merit report that leads us to conclude otherwise. In addition, they provide nothing that would support a claim of ineffective assistance of trial counsel, and Davis told the circuit court he was satisfied with trial counsel's representation of him. Davis 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.² *State v. Kelty*, 2006 WI 101, ¶18, 294 Wis. 2d 62, 716 N.W.2d 886. For all the foregoing reasons, we conclude that there would be no arguable merit to a challenge related to Davis’ guilty plea.

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, Davis’ 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, Davis had the opportunity to address the court directly at sentencing, which he did.

As noted, the circuit court imposed an aggregate sentence of 50 years of imprisonment, comprised of 30 years of initial confinement and 20 years of extended supervision. Davis faced a maximum sentence of 120 years of imprisonment—60 years of imprisonment for each of his convictions. See WIS. STAT. §§ 948.025(1)(b), 939.50(3)(b). Under the circumstances, it cannot reasonably be argued that Davis’ sentence is so excessive as to shock public sentiment. See *Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975).

Upon our independent review of the Record, we see no other arguable basis for reversing the judgment of conviction. 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.

² Our review of the Record and the no-merit report does not indicate that any suppression motions were filed in this case.

Accordingly,

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

IT IS FURTHER ORDERED that Attorney Marcella DePeters is relieved from further representing Timothy F. Davis 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