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DISTRICT II

August 12, 2026

To:

Hon. William J. Domina
Circuit Court Judge
Electronic Notice

John Blimling
Electronic Notice

Monica Paz
Clerk of Circuit Court
Waukesha County Courthouse
Electronic Notice

Leonard D. Kachinsky
Electronic Notice

Devon A. Sheriff #462866
John C. Burke Correctional Inst.
P.O. Box 900
Waupun, WI 53963-0900

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

2024AP1813-CRNM State of Wisconsin v. Devon A. Sheriff (L.C. #2020CF302)

Before Lazar, P.J., Gundrum, 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).

Devon A. Sheriff appeals from a judgment of the circuit court sentencing him to prison following the revocation of his probation on his conviction of manufacturing or delivering between 200 and 1000 grams of THC, as a second and subsequent offense and as party to a crime (PTAC). Attorney Leonard D. Kachinsky has filed a no-merit report indicating there are no arguably meritorious issues for appellate review and seeking to withdraw as appellate counsel. See WIS. STAT. RULE 809.32 (2023-24);¹ *Anders v. California*, 386 U.S. 738, 744

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

(1967); and *State ex rel. McCoy v. Wisconsin Court of Appeals*, 137 Wis. 2d 90, 403 N.W.2d 449 (1987), *aff'd*, 486 U.S. 429. Sheriff filed a response to the no-merit report. Appointed counsel filed a supplemental report addressing Sheriff's response, and Sheriff has filed a supplemental response. Upon reviewing the entire record, as well as the no-merit report, response, supplemental no-merit report, and supplemental response, we conclude that there are no arguably meritorious appellate issues. We summarily affirm.

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 an appellant 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). As the no-merit report properly observes, the only potential issue for appeal is the circuit court's imposition of sentence following revocation.²

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 the record for the sentence.” *State v. Krueger*, 119 Wis. 2d 327, 336, 351 N.W.2d 738 (Ct. App. 1984). Here, the record shows that Sheriff was afforded the opportunities to comment on his revocation proceedings and to address the court prior to sentencing, which he did. The circuit

² Sheriff raises numerous issues in his responses, but few of them are subject to review by this court, as noted, and none of them presents an issue of arguable merit for appeal.

court considered the standard sentencing factors and explained their application to this case. *See generally State v. Gallion*, 2004 WI 42, ¶¶39-46, 270 Wis. 2d 535, 678 N.W.2d 197.

Specifically, the circuit court here commented on the dangerousness of selling drugs because of the close connection between drugs and guns. The court spoke of the risks that drug behavior created not just for Sheriff and his associates, but also for the general public. The court observed that Sheriff had been associating with bad people and had been in and out of correctional facilities since he was a teenager. Moreover, Sheriff failed to accept responsibility for his criminal conduct, repeatedly complaining that the system was rigged against him. In addition, Sheriff was considered a high risk to reoffend, and historically, he had been unsuccessful on probation and extended supervision, resulting in his revocation multiple times.

The circuit court then sentenced Sheriff to four years of initial confinement and three years of extended supervision. It also imposed standard costs and conditions of supervision, and awarded 887 days of sentence credit. Finally, the court found that Sheriff should not be eligible for the Challenge Incarceration Program or Substance Abuse Program, both of which provide an opportunity for a shorter term of confinement, primarily because of his lengthy criminal record.

The sentence the circuit court imposed is within the applicable penalty range, and constituted considerably less than the maximum exposure of ten years Sheriff faced. *See* WIS. STAT. §§ 961.41(1)(h)2. (classifying manufacture or delivery of 200-1000 grams of THC as a Class H felony); 939.50(3)(h) (providing maximum imprisonment term of six years for Class H felonies); 961.48(1)(b) (providing maximum sentence may be increased by four years if defendant was convicted of another drug offense prior to conviction on the current offense); and 973.01 (explaining bifurcated sentence structure). There is a presumption that a sentence “well

within the limits of the maximum sentence” is not unduly harsh, and the sentence totaling seven years of imprisonment imposed here is not “so excessive and unusual and so disproportionate to the offense committed as to shock public sentiment and violate the judgment of reasonable people concerning what is right and proper under the circumstances.” See *State v. Grindemann*, 2002 WI App 106, ¶¶31-32, 255 Wis. 2d 632, 648 N.W.2d 507.

Upon our independent review of the record, we have found no other arguable basis for reversing the judgment. 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. Therefore,

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

IT IS FURTHER ORDERED that Attorney Leonard D. Kachinsky is relieved of any further representation of Devon A. Sheriff 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