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DISTRICT I

October 20, 2026

To:

Hon. Ellen R. Brostrom
Circuit Court Judge
Electronic Notice

John Blimling
Electronic Notice

Anna Hodges
Clerk of Circuit Court
Milwaukee County Safety Building
Electronic Notice

Jill Marie Skwor
Electronic Notice

Donzell Lamont Payne 370863
Gordon Correctional Center
10401 E. County Road G.
Gordon, WI 54838

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

2025AP706-CRNM State of Wisconsin v. Donzell Lamont Payne (L.C. # 2022CF3856)

Before Colón, P.J., Geenen, and Petrashek, 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).

Donzell Lamont Payne appeals from a judgment convicting him of homicide by use of a vehicle with a detectable amount of a controlled substance in his blood. His appellate counsel, Jill M. Skwor, has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2023-24) and *Anders v. California*, 386 U.S. 738 (1967).¹ Payne received a copy of the report, was advised of his right to file a response, and has elected not to do so. Upon consideration of the report and an independent review of the record, we conclude that the judgment may be summarily affirmed

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

because there is no arguable merit to any issue that could be raised on appeal. *See* WIS. STAT. RULE 809.21.

Initially, Payne was charged with one count of injury by intoxicated use of a vehicle and one count of knowingly operating a motor vehicle without a valid license, with both charges causing great bodily harm. The complaint alleged that on October 1, 2022, a vehicle struck a bicyclist. The bicyclist, S.J.K., was unresponsive at the scene and was transported to the hospital for treatment.

The complaint additionally alleged that a witness who was interviewed at the scene told the investigating police officers that he saw a tan Toyota Camry speed through a red light before striking the bicyclist. An officer made contact with the driver, Payne, who was still seated in the Camry. Payne admitted to having smoked marijuana, appeared impaired, and made other statements against his own interest. A review of Wisconsin Department of Transportation records reflected that Payne had never been issued a driver's license.

At the preliminary hearing, a police officer testified that S.J.K. died as a result of the injuries sustained in the collision. The State subsequently filed an amended information charging Payne with homicide by intoxicated use of a vehicle with a detectable amount of a controlled substance and knowingly operating a motor vehicle without a valid license causing death.

Pursuant to plea negotiations, Payne pled guilty to homicide by intoxicated use of a vehicle with a detectable amount of a controlled substance. In exchange, the State agreed to dismiss and read in the remaining charge. Additionally, the State agreed to recommend that Payne be sentenced to eight years of initial confinement, but would not make a recommendation

as to the length of extended supervision. The negotiations left Payne free to argue as to the length of his sentence. The circuit court accepted Payne's plea and sentenced him to eight years of initial confinement and four years of extended supervision.

A restitution hearing followed. Payne did not contest the amount requested for restitution, but disputed his ability to pay the full amount, which totaled \$265,000. After taking into account Payne's age, employment history, education, and the importance of holding him financially accountable, the court ordered him to repay 15% of the amount requested, which equaled \$39,750.

The no-merit report addresses whether Payne's plea was entered knowingly, voluntarily, and intelligently. 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 relating to the nature of the charge, the rights Payne was waiving, and other matters. The record shows no other ground to withdraw the plea. There is no arguable merit to this issue.

The no-merit report also addresses Payne's sentence and the circuit court's restitution award. The sentence is within the legal maximum. As to discretionary issues, 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.

As to restitution, the record reflects that the circuit court did not erroneously exercise its discretion when it concluded that Payne did not have the ability to pay in full and instead held him responsible for 15% of the total amount requested. See *State v. Gibson*, 2012 WI App 103,

¶8, 344 Wis. 2d 220, 822 N.W.2d 500 (“A request for restitution, including the calculation as to the appropriate amount of restitution, is addressed to the circuit court’s discretion[.]”). There is no arguable merit to this issue.

Our review of the record discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit report, affirms the conviction, and discharges appellate counsel of the obligation to represent Payne further in this appeal.

Therefore,

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

IT IS FURTHER ORDERED that Attorney Skwor is relieved of further representation of Payne 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