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DISTRICT I

October 20, 2026

To:

Hon. Jeffrey A. Wagner
Circuit Court Judge
Electronic Notice

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

Lisa E.F. Kumfer
Electronic Notice

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

2025AP1362-CR State of Wisconsin v. Jerome Watts, Jr. (L.C. # 2022CF2238)

Before Donald, C.J., Colón, P.J., and Geenen, J.

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).

Jerome Watts, Jr. appeals the judgment convicting him of second-degree sexual assault of a child. Watts also appeals the order denying his postconviction motion for plea withdrawal. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2023-24).[1] We summarily affirm.

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

The State charged Watts with first-degree sexual assault of a child (sexual intercourse with a child under twelve years of age), first-degree sexual assault of a child (sexual contact with a child under thirteen years of age), and resisting an officer. According to the complaint, in 2022, a teacher overheard Jane[2] tell a peer that she had been through something bad. When the teacher asked Jane what she meant, Jane disclosed instances of sexual intercourse and masturbation with Watts, who was her mother's ex-boyfriend.

The complaint relayed that during a forensic interview, Jane revealed that when she got in trouble, Watts would take her phone and make her play a "game" during which he would do things to her body and she would do things to his in order to get the phone back. Jane described having to touch Watts' penis while his clothes were off. On a different day, Jane said that Watts made her go to the basement where he took his clothes off, "put his penis into her buttocks," and moved it "back and forth until he said he was done."

When police responded to the house, Watts resisted arrest, eventually causing police to tase him to take him into custody.

Watts moved to dismiss the charge of first-degree sexual assault of a child (sexual intercourse with a child under twelve years of age) based on the victim being over twelve years of age. The State subsequently filed an amended information that reduced the charges to one count of repeated sexual assault of a child and one count of resisting an officer.

[2] Pursuant to the policy underlying WIS. STAT. RULE 809.86(4), we use a pseudonym instead of the victim's name.

Pursuant to plea negotiations, Watts pled guilty to second-degree sexual assault of a child under the age of sixteen and the resisting charge was dismissed and read in. The second amended information specified the offense as sexual contact with the victim contrary to WIS. STAT. § 948.02(2).

Watts signed a plea questionnaire and waiver of rights form for which the elements of the crime were attached as WIS JI—CRIMINAL 2104. This instruction listed the elements of the crime for sexual assault by sexual contact as follows: (1) the defendant had sexual contact with the victim; and (2) the victim was under the age of sixteen years at the time of the contact. The instruction then directs the reader to refer to WIS JI—CRIMINAL 2101A for the definition of sexual contact. However, WIS JI—CRIMINAL 2101A was not included with the plea questionnaire and other materials submitted to the court.

Watts subsequently moved to withdraw his plea on grounds that it was unknowing, unintelligent, and involuntary. Watts argued that he was not made aware of the legal definition of sexual contact, specifically the purpose element, for the crime of second-degree sexual assault of a child. Namely, that the touching in this case was for the specifically prohibited purpose of sexual degradation, humiliation, arousal, or gratification.[3] Watts claimed he would not have pled guilty if he knew the State had to prove such purpose.

Trial counsel and Watts testified during the evidentiary hearing that followed, and the circuit court took judicial notice of the State's previously filed other actions motion and the

[3] WIS JI—CRIMINAL 2101A provides that sexual contact be for the following prohibited purposes: the defendant acted with intent to become sexually aroused or gratified; or the defendant acted with intent to sexually degrade or humiliate the victim.

presentence investigation report (PSI). After the hearing, the parties submitted proposed findings of fact and conclusions of law. Ultimately, the circuit court adopted the findings of fact and conclusions of law submitted by the State and denied Watts' postconviction motion. In doing so, the court considered the entire record, which included Watts' two prior juvenile adjudications for sexually assaulting a child, the sex offender treatment Watts went through, trial counsel's experience and testimony, the State's other acts motion, and Watts' statements to the PSI writer. This appeal follows.

Watts continues to argue that he is entitled to plea withdrawal on the grounds that the circuit court failed to convey and ensure his understanding of the purpose element of sexual contact. Watts asserts that he did not understand the nature of the charge, and, therefore, his plea was not entered knowingly, voluntarily, and intelligently.

"Whether a plea is knowing, intelligent, and voluntary is a question of constitutional fact." ***State v. Brown***, 2006 WI 100, ¶19, 293 Wis. 2d 594, 716 N.W.2d 906. This court "accept[s] the circuit court's findings of historical and evidentiary facts unless they are clearly erroneous but [determines] independently whether those facts demonstrate that the defendant's plea was knowing, intelligent, and voluntary." ***Id.***

An error in the plea colloquy alone is not enough to mandate plea withdrawal. If the defendant makes a prima facie showing of a violation of the procedural requirements included in WIS. STAT. § 971.08 and alleges that he or she did not know or understand that information, "the burden then shifts to the State to show by clear and convincing evidence at an evidentiary hearing that, notwithstanding the colloquy deficiencies, the defendant's plea was entered knowingly, intelligently, and voluntarily." ***State v. Negrete***, 2012 WI 92, ¶30, 343 Wis. 2d 1,

819 N.W.2d 749. The State may use the entire record to do so and may also question the defendant and the defendant's counsel "to shed light on the defendant's understanding or knowledge of information necessary for him to enter a voluntary and intelligent plea." ***State v. Bangert***, 131 Wis. 2d 246, 275, 389 N.W.2d 12 (1986).

Put simply, "[i]f a defendant does not understand the nature of the charge and the implications of the plea, he should not be entering the plea, and the court should not be accepting the plea." ***Brown***, 293 Wis. 2d 594, ¶37. "On the other hand, if a defendant does understand the charge and the effects of his plea, he should not be permitted to game the system by taking advantage of judicial mistakes." ***Id.***

The State does not dispute that Watts made the requisite prima facie showing. As such, the question becomes whether the State met its burden to show by clear and convincing evidence that Watts understood the nature of the charge.

The circuit court found that Watts "is uniquely situated because he has 2 prior juvenile adjudications for sexual assault of a child" and was ordered to participate in sex offender treatment in both cases. The circuit court additionally made the following findings relative to trial counsel: Watts' trial counsel was a very experienced criminal attorney who had handled many sexual assault cases and was very familiar with the legal definition of sexual contact; trial counsel engaged in extensive briefing on the admissibility of other acts evidence and in the context of that briefing addressed the distinction between sexual intercourse and sexual contact; trial counsel testified that he had no concerns about Watts' understanding of definition of sexual contact; trial counsel testified he went over the elements of the crime with Watts, including the element of sexual contact; and trial counsel felt "completely comfortable" with the fact that

Watts understood the general law regarding those terms. The circuit court also found that there was no indication in the PSI of confusion with regard to Watts' comments about the elements of the offense; Watts testified that trial counsel "tried" to explain sexual contact to him; and Watts told the PSI writer that he knew it was wrong to have sexual contact with Jane.

While Watts seemingly would like *clearer* evidence, the standard is clear and convincing evidence. We conclude the State met it burden to show that Watts' plea was entered knowingly, intelligently, and voluntarily. The circuit court properly denied Watts' motion.[4]

Therefore,

IT IS ORDERED that the judgment and order are summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Samuel A. Christensen
Clerk of Court of Appeals

[4] We note in passing that the State requested that we certify this case to our supreme court for a determination of whether ***State v. Bollig***, 2000 WI 6, 232 Wis. 2d 561, 605 N.W.2d 199, "was incorrectly decided[.]" As we are affirming the circuit court's decision on other grounds, we decline to do so.