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DISTRICT II

November 18, 2026

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Circuit Court Judge
Electronic Notice

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Clerk of Circuit Court
Racine County Courthouse
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You are hereby notified that the Court has entered the following opinion and order:

2026AP1153-CRNM State of Wisconsin v. Kenneth L. Booker (L.C. #2023CF203)

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).

Kenneth L. Booker appeals a judgment of conviction entered upon his no-contest plea to second-degree sexual assault of a child younger than 16 years of age. His appellate counsel filed a no-merit report pursuant to ***Anders v. California***, 386 U.S. 738 (1967) and WIS. STAT. RULE 809.32 (2023-24).[1] Booker did not file a response. We have considered the no-merit report and conducted an independent review of the Record as mandated by ***Anders***. We

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

conclude that no arguably meritorious issues exist for an appeal, and we summarily affirm. *See* WIS. STAT. RULE 809.21.

The criminal complaint reflects that in 2022, when J.M.A. was 12 years old, she disclosed to a family member that Booker had sexually assaulted her when she was seven or eight years old. In a subsequent forensic interview, she said that Booker had exposed his penis to her multiple times, and on one of those occasions had put her hand on his penis. She also said that on approximately 20 occasions, Booker had put his penis in her mouth and that something white and thick would then come into her mouth, Police spoke to Booker, born in 1971, and he admitted that he had lived in the same home with J.M.A. during periods from 2016 until 2021, but he denied any sexual activity with her and speculated that she had invented her story because he was "cheating on" her grandmother. The State charged Booker with repeated sexual assault of a child and with exposing genitals to a child.

Booker resolved the charges with a plea agreement. Pursuant to its terms, the State amended the charge of repeated sexual assault of a child to a charge of second-degree sexual assault of a child younger than 16 years old by means of sexual intercourse. Booker pled no-contest to that amended charge, and the remaining charge was dismissed and read in for sentencing purposes. The State did not make any sentence concessions.

At sentencing, Booker faced a maximum penalty of 40 years of imprisonment and a $100,000 fine. *See* WIS. STAT. §§ 948.02(2), 939.50(3)(c) (2021-22). The circuit court imposed 15 years of initial confinement and ten years of extended supervision.

We first consider whether Booker could pursue an arguably meritorious claim for plea withdrawal on the ground that his no-contest plea was not entered knowingly, intelligently, and

voluntarily. *See* ***State v. Bangert***, 131 Wis. 2d 246, 257, 389 N.W.2d 12 (1986). A defendant may seek plea withdrawal under ***Bangert*** by showing that the circuit court did not fulfill the duties mandated during a plea hearing and the defendant did not know or understand the information that should have been provided at that time. ***Id.*** at 274. We agree with appellate counsel that Booker could not make such a showing.

The Record shows that at the outset of the plea hearing, the circuit court established that Booker was 52 years old and could read, write, and understand English. The court also established that Booker had signed a plea questionnaire and waiver of rights form, and Booker assured the court that he had reviewed that form with his trial counsel before it was filed and that he understood its contents. *See* ***State v. Pegeese***, 2019 WI 60, ¶¶36-37, 387 Wis. 2d 119, 928 N.W.2d 590. Trial counsel confirmed that he had reviewed the form with Booker and said that, in counsel's view, Booker fully understood and appreciated all of the information on that form. *See* ***id.***, ¶38. The court went on to conduct a colloquy with Booker as required when accepting a plea other than not guilty. *See* ***id.***, ¶23; *see also* WIS. STAT. § 971.08(1).

Among the circuit court's duties at a plea hearing is the obligation to establish that the defendant understands the range of punishments that he or she faces upon conviction. ***State v. Brown***, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906; WIS. STAT. § 971.08(1)(a). We have considered whether Booker could move for plea withdrawal on the ground that the court failed to fulfill that duty because, according to the transcript, the court's explanation of the range of punishments included the erroneous assertion that Booker faced "a four-year period of incarceration." We note that the transcript does not reflect a response to the court's apparent misstatement from either the prosecutor or the defense attorney, suggesting that the court reporter misheard the court's description of the 40-year maximum sentence. Consequently, it is

not clear that Booker could establish a defect in the plea colloquy, as required to satisfy the first step of a ***Bangert*** motion. *See* ***Bangert***, 131 Wis. 2d at 274. Assuming, however, that the court misstated the maximum sentence, the Record shows that Booker nonetheless correctly understood the range of punishments that he faced. The plea questionnaire correctly stated that Booker faced 40 years of imprisonment and a $100,000 fine, and the court established through Booker and his counsel that Booker understood the information on the form. Therefore, the Record does not support a claim for plea withdrawal based on the court's apparent understatement of the maximum sentence. *See* ***State v. Taylor***, 2013 WI 34, ¶¶34-39, 347 Wis. 2d 30, 829 N.W.2d 482 (holding that the circuit court's understatement of the statutory maximum sentence during the plea colloquy did not undermine the validity of the plea when the defendant and his trial counsel confirmed during the plea hearing that the defendant understood the information, including the range of punishments, that was correctly stated on the plea questionnaire).

We have also considered whether Booker could pursue an arguably meritorious claim for plea withdrawal on the ground that the circuit court failed to provide the warnings about deportation and other immigration consequences that are required by WIS. STAT. § 971.08(1)(c). We conclude that he could not do so because the Record shows that Booker's no-contest plea is unlikely to result in any such consequences. *See* § 971.08(2) (providing that if the circuit court fails during the plea hearing to provide the warnings required by § 971.08(1)(c), and if the defendant later shows that the plea is likely to result in certain adverse immigration consequences, then the court, on the defendant's motion, shall vacate the judgment and permit plea withdrawal). First, the presentence investigation report reflects that Booker was born in Racine and therefore is a United States citizen. Second, the Record shows that Booker has

twelve prior criminal convictions spanning the period from 1990 through 2021, and that he continued to live in the United States after each conviction, including during periods of community supervision. Third, the warnings required by § 971.08(1)(c) are on the plea questionnaire, which Booker reviewed with his counsel and told the court that he understood. Accordingly, the circuit court's error in failing to provide deportation warnings during the plea colloquy was harmless. ***State v. Reyes Fuerte***, 2017 WI 104, ¶¶2-3, 38, 378 Wis. 2d 504, 904 N.W.2d 773.

No other aspects of the plea proceedings require discussion. We are satisfied that the Record—including the plea questionnaire and waiver of rights form and the transcript of the plea hearing—demonstrates that Booker knew and understood the information that he was entitled to receive and shows that he entered his no-contest plea knowingly, intelligently, and voluntarily. *See* WIS. STAT. § 971.08; *see also* ***Bangert***, 131 Wis. 2d at 266-72. Further pursuit of this issue would lack arguable merit.

By entering a valid no-contest plea, Booker forfeited the right to raise nonjurisdictional defects and defenses, including claimed violations of constitutional rights arising before the plea. *See* ***State v. Kelty***, 2006 WI 101, ¶18 & n.11, 294 Wis. 2d 62, 716 N.W.2d 886; *see also* ***State v. Lasky***, 2002 WI App 126, ¶11, 254 Wis. 2d 789, 646 N.W.2d 53. No applicable exception is implicated here.

Finally, we have considered whether the circuit court properly exercised its sentencing discretion. *See* ***State v. Gallion***, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197. The Record reflects that the court identified deterrence and Booker's rehabilitation as the primary sentencing goals, and the court discussed the factors that it viewed as relevant to achieving those

goals. *See* ***id.***, ¶¶41-43. That discussion included consideration of the mandatory sentencing factors, namely, "the gravity of the offense, the character of the defendant, and the need to protect the public." ***State v. Ziegler***, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. The sentence selected was well within the maximum sentence allowed by law and cannot reasonably be characterized as unduly harsh or unconscionable. *See* ***State v. Scaccio***, 2000 WI App 265, ¶18, 240 Wis. 2d 95, 622 N.W.2d 449. A challenge to the sentence would lack arguable merit.

Our independent review of the Record does not disclose any other potential issues warranting discussion. We conclude that further postconviction or 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 Dustin C. Haskell is relieved of any further representation of Kenneth L. Booker on 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