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DISTRICT II

July 30, 2025

To:

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Circuit Court Judge
Electronic Notice

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William Q. Howell, #657872
Wisconsin Secure Program Facility
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You are hereby notified that the Court has entered the following opinion and order:

2025AP152-CRNM State of Wisconsin v. William Q. Howell (L.C. #2019CF888)

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

William Q. Howell appeals from a judgment, entered following his guilty pleas, convicting him of armed robbery with threat of force, kidnapping, and robbery of a financial institution, all as a repeater. Howell's 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). Howell was advised of his right to file a response, and he has responded. Counsel filed a supplemental no-

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

merit report. After reviewing the Record, counsel's reports, and Howell's response, we conclude that there are no issues with arguable merit for appeal. Therefore, we summarily affirm the judgment. *See* WIS. STAT. RULE 809.21.

According to a criminal complaint, Howell and two co-defendants followed a bank manager as she left work. The manager picked up her two-year-old and five-year-old children from a babysitter's house. When she arrived home, Howell and one of the co-defendants brandished firearms, got into the woman's car, and kidnapped the woman and her children. Howell and his two co-defendants kept the family overnight in the basement of a house. The next morning, Howell and the co-defendants drove the woman and her children to the bank in her vehicle, forced her to open the vault, and stole approximately $48,000 from the vault. They left the woman and her children at the bank and drove the woman's car to Milwaukee, where her car was set on fire. An information charged Howell with armed robbery with threat of force, three counts of kidnapping, and robbery of a financial institution, all counts as a repeater.

Pursuant to a plea agreement, Howell pled guilty to armed robbery with threat of force, one count of kidnapping, and robbery of a financial institution, all counts as a repeater. The remaining two kidnapping charges were dismissed and read in. The State agreed to recommend consecutive sentences of ten years' initial confinement and six years' extended supervision on each count for a cumulative sentence of 30 years' initial confinement and 18 years' extended

supervision. Ultimately, the circuit court sentenced Howell to a cumulative sentence of 36 years' initial confinement and 20 years' extended supervision.[2] This no-merit appeal follows.

The no-merit report addresses potential issues of whether Howell's pleas were knowingly, voluntarily, and intelligently entered, whether any pretrial issues were preserved despite the entry of Howell's guilty pleas, and whether the circuit court properly exercised its discretion at sentencing. Upon reviewing the Record, we agree with counsel's analysis and conclusion that there is no arguable basis to pursue any of these issues. We will later comment briefly on the validity of the pleas and the court's sentencing discretion.

Howell filed a response identifying various issues of arguable merit for appeal. Specifically, he asserts the State coerced him to enter into a plea agreement; he was uninformed regarding the maximum sentence he could receive; he was coerced to forgo his plea withdrawal motion before sentencing; the court relied on inaccurate information at sentencing; and the State breached the plea agreement at sentencing. Appellate counsel filed a supplemental no-merit report, explaining why each issue raised by Howell lacks arguable merit. We discuss each in turn and include additional facts as necessary.

Howell first asserts there is an issue of arguable merit as to whether the State coerced him to enter pleas in this case. According to Howell, the State's original plea offer included a cumulative sentence recommendation of 30 years' initial confinement. When Howell was

[2] Specifically, on the kidnapping charge, the court sentenced Howell to 25 years' initial confinement and ten years' extended supervision. On the armed-robbery charge, the court sentenced Howell to eleven years' initial confinement and ten years' extended supervision, consecutive to the kidnapping sentence. On the robbery-of-a-financial-institution charge, the court sentenced Howell to five years' initial confinement and ten years' extended supervision, concurrent to the kidnapping and armed robbery sentences.

undecided about whether to accept the plea offer, the State purportedly advised him that it needed to conclude this case for the victims' benefit and it would increase its sentencing recommendation by five years for each hearing where Howell remained indecisive on whether to accept the plea agreement. By Howell's calculation, the State's sentencing recommendation called for 60 years' initial confinement by the time he decided to enter guilty pleas. According to Howell, he only accepted the State's plea offer when he did because as part of the offer, the State agreed to return to its original recommendation of 30 years' initial confinement and Howell needed "[t]o stop [the State's sentencing recommendation] from becoming even more outrageous[.]"

The Record reflects that at the plea hearing, when asked by the circuit court, Howell personally advised the court that no one was forcing him to enter his pleas and that all of his decisions were being made freely, knowingly, and voluntarily. Because the Record conclusively demonstrates that Howell is not entitled to relief, we conclude there is no arguable merit to seek plea withdrawal on the basis that Howell was purportedly coerced by the State to enter into the plea agreement. *See* ***Nelson v. State***, 54 Wis. 2d 489, 497-98, 195 N.W.2d 629 (1972).

Howell next argues that when pleading to the charges, he was uninformed regarding the maximum sentence he could receive. He claims he thought he was facing a cumulative maximum penalty of 46 years' imprisonment and he did not know that each offense carried a maximum penalty of 46 years' imprisonment for a cumulative maximum penalty of 138 years' imprisonment.

However, Howell's claims are contradicted by the Record. Howell pled to three class C felonies as a repeater. *See* WIS. STAT. § 939.50(3)(c) (Class C felony penalties include "a fine

not to exceed $100,000 or imprisonment not to exceed 40 years, or both"); 939.62(1)(c) ("maximum term of imprisonment ... may be increased … by not more than 6 years if the prior conviction was for a felony."). At the plea hearing, the following exchange occurred:

> THE COURT: And do you understand that the maximum penalty on each of these offenses would be a 46-year period of incarceration or a $100,000 fine or both?
>
> THE DEFENDANT: Yes, sir.
>
> THE COURT: And do you understand I'm not bound by any recommendation, whether it's from the State or yourself or from the Department of Corrections, and that I can sentence you up to the maximum penalties or any combination that I feel and find is appropriate under the circumstances?
>
> THE DEFENDANT: Yes, sir.

Howell also admitted to the court that he had reviewed, understood, and signed the plea questionnaire. The plea questionnaire, in turn, listed each count separately and noted each count had a maximum imprisonment term of 46 years.

Further, months before Howell ultimately entered guilty pleas, the court held a ***Ludwig***[3] hearing and advised Howell that if he was convicted of all the charged offenses, he was facing approximately 230 years of imprisonment. Howell personally advised the court that he understood. Because the Record conclusively demonstrates Howell was aware of the maximum penalties when he pled to the offenses, Howell is not entitled to relief and there is no arguable merit to seek plea withdrawal on this basis. *See* ***Nelson***, 54 Wis. 2d at 497-98.

[3] ***State v. Ludwig***, 124 Wis. 2d 600, 610-11, 369 N.W.2d 722 (1985) (addressing the defendant's right to be informed of the State's plea offer and to personally accept or reject it).

We also agree with counsel's conclusion that any challenge to the validity of Howell's pleas would lack arguable merit. *See* ***State v. Bangert***, 131 Wis. 2d 246, 260, 389 N.W.2d 12 (1986). Our review of the Record and of counsel's analysis in the no-merit report satisfies us that the circuit court complied with its obligations for taking Howell's pleas. *See* WIS. STAT. § 971.08; ***Bangert***, 131 Wis. 2d at 261-62; ***State v. Brown***, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906.

Howell next argues there is an issue of arguable merit as to whether he was coerced to withdraw his plea withdrawal motion before sentencing. As background, Howell pled to the offenses on June 15, 2021. The court ordered a presentence investigation (PSI) report. Sentencing was scheduled for May 16, 2022.

On May 16, 2022, Howell moved to withdraw his pleas. The following exchange occurred:

> THE COURT: So, Mr. Howell, your attorney has filed on your behalf a motion to withdraw your plea. If that is the case, we will not proceed to sentencing today. Do you understand that?
>
> THE DEFENDANT: Yes.
>
> THE COURT: And you understand and as I just advised your counsel that there's been a pre-sentence investigation report here where you've given information and what I would -- pretty much without a doubt incriminate you, the information that you provided in the report. Do you understand that?
>
> THE DEFENDANT: Yes.

> THE COURT: And then obviously I was privy to a trial that took place in which you also made multiple incriminating statements as well.[4] Do you understand all that?
>
> THE DEFENDANT: Yeah.
>
> THE COURT: And knowing all that information and reviewing all the discovery in the case, it's still your intent and desire to file a motion to withdraw your plea?
>
> THE DEFENDANT: No, never mind.
>
> THE COURT: All right.
>
> THE DEFENDANT: I'm sorry.
>
> THE COURT: Well, I think you need to have a conversation with your [attorney]. I'm not real comfortable proceeding because, you know, this is really serious stuff, as I'm sure you can appreciate.
>
> THE DEFENDANT: I know.

The court decided to delay sentencing so that Howell could have the opportunity to discuss the matter with trial counsel and determine whether he wanted to proceed with his plea withdrawal motion or whether he wanted to proceed to sentencing.

Two months later, the court reconvened for sentencing. At the beginning of the hearing, Howell's trial counsel advised the court that Howell was withdrawing his plea withdrawal motion and wished to proceed to sentencing. Howell then personally advised the court that he had enough time to discuss the matter with his attorney, no one was forcing him to withdraw his plea withdrawal motion, and he intended and desired to withdraw the motion and proceed to sentencing.

[4] Between Howell's plea and sentencing, he testified as a defense witness in one of his co-defendant's trials.

Howell now asserts he was coerced to withdraw his plea withdrawal motion. He states the circuit court was unhappy with his motion, "a few implications were made about what would happen if [he] were to proceed with the plea withdrawal," and Howell "made a hasty in-court decision to dismiss the plea withdrawal motion." The Record contradicts Howell's assertions. The court gave Howell approximately two months to decide whether he wanted to proceed with his plea withdrawal motion. When he returned to court, Howell personally advised the court he had enough time to discuss the issue with counsel and he wanted to withdraw the motion and proceed to sentencing. We conclude there is no issue of arguable merit as to whether Howell was coerced to forgo his plea withdrawal motion before sentencing.

Howell then argues the circuit court sentenced him based on inaccurate information. Specifically, he asserts the State made two inaccurate statements about his criminal history and the court relied on those statements when sentencing him. To provide context for this argument, the Record reflects Howell did not have an extensive criminal history prior to these offenses. According to the PSI report,[5] Howell pled to and was convicted of burglary with a second count of armed burglary dismissed and read in. Howell and an accomplice broke into a gun store, stole guns, and returned the following week to steal ammunition. In that case, he was sentenced to prison. While serving his prison sentence, he hit a counselor with a garbage can. He ultimately pled to battery by a prisoner, sentence was withheld, and he was placed on two years' probation. Probation was later revoked.

[5] Howell does not claim the PSI report was inaccurate.

During the State's sentencing remarks, it stated Howell "robb[ed] the same gun store on two different occasions" and "he did get revoked on the armed robbery cases with guns out of Milwaukee County, so I don't know what the time is that he has left to serve on that." Howell asserts the State's comments were inaccurate because he was never convicted of robbery; he was convicted of one count of burglary. He also states he was not serving revocation for armed robbery out of Milwaukee. Howell claims "[b]efore handing down my sentence, the Judge acknowledged the false convictions that the district attorney inaccurately stated."

A defendant has a constitutionally protected due process right to be sentenced based on accurate information. ***State v. Tiepelman***, 2006 WI 66, ¶9, 291 Wis. 2d 179, 717 N.W.2d 1. To succeed on a claim for sentencing based on inaccurate information, the defendant must prove, by clear and convincing evidence, both that there was inaccurate information at sentencing and that the sentencing court relied on that information. ***Id.***, ¶26. Reliance in this context means that "the court gave 'explicit attention' or 'specific consideration' to" the inaccurate information such that "the misinformation 'formed part of the basis for the sentence.'" ***Id.***, ¶14 (citations omitted).

Here, Howell is unable to show that the circuit court actually relied on any inaccurate information during sentencing. As to Howell's criminal record, the court noted simply:

> He has the record as outlined on page 10 [of the PSI]. It's not lengthy but it's serious and, as was noted, he had been through the criminal justice system, including being in juvenile prison, that being Lincoln Hills, and then he ultimately was serving time in prison and then was on extended supervision at the time of this offense, just having been released a matter of months earlier.

Nothing in the court's statement is inaccurate.

Further, the circuit court's sentencing remarks as a whole make clear that the court was not focused on the number of Howell's prior convictions or on any prior conviction in particular. Rather, the court primarily focused on the gravity of the offenses and the need to protect the public, noting "it's one of the most horrific cases I have had in my career aside from homicide cases[.]" "It was a terrifying incident to be thrust in a car, travel to another city, thrust into a basement with no amenities and a bucket to relieve themselves in, only to then be taken out at gunpoint to go back at gunpoint to a bank and take all of, what, approximately $48,000." The court noted, "The actions here are clearly the kind that there's a definitive need to protect the public." We conclude there is no issue of arguable merit as to whether Howell was sentenced based on inaccurate information.

Howell then argues the State breached the plea agreement during sentencing when it noted that Howell was currently serving a revocation sentence and the State was "obviously recommending consecutive time." However, the plea agreement in this case was silent as to whether the State would recommend that his sentence run concurrent or consecutive to his revocation sentence. *See* ***State v. Tourville***, 2016 WI 17, ¶36, 367 Wis. 2d 285, 876 N.W.2d 735 ("[W]hen a plea agreement is silent regarding concurrent or consecutive sentences, the defendant has not bargained for the State's promise to refrain from recommending the sentences be served consecutively."). There is no arguable merit to asserting the State breached the plea agreement.

With regard to the circuit court's sentencing discretion, our review of the Record confirms that the court appropriately considered the relevant sentencing objectives and factors. *See* ***State v. Odom***, 2006 WI App 145, ¶7, 294 Wis. 2d 844, 720 N.W.2d 695; ***State v. Ziegler***, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. The resulting sentence was within the maximum authorized by law. *See* ***State v. Scaccio***, 2000 WI App 265, ¶18, 240 Wis. 2d 95, 622

N.W.2d 449. The sentence was not so excessive so as to shock the public's sentiment. *See* ***Ocanas v. State***, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). We conclude there would be no arguable merit to a challenge to the court's sentencing discretion.

Our independent review of the Record discloses no other potential issues for appeal. This court accepts the no-merit report, affirms the judgment of conviction, and discharges appellate counsel of the obligation to represent Howell further in this appeal.

Upon the foregoing reasons,

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 Gregory Bates is relieved from further representing William Q. Howell 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