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DISTRICT II

August 13, 2025

To:

Hon. Michael S. Gibbs
Circuit Court Judge
Electronic Notice

John Blimling
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Desiree Bongers
Clerk of Circuit Court
Winnebago County Courthouse
Electronic Notice

Robert J. Myers, #335929
Oshkosh Correctional Inst.
P.O. Box 3310
Oshkosh, WI 54903-3310

Carlos Bailey
Electronic Notice

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

2024AP1097-CRNM State of Wisconsin v. Robert J. Myers (L.C. #2022CF195)

Before Neubauer, 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).

Robert J. Myers appeals from a judgment of conviction and an order denying his postconviction motion. His 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). Myers filed multiple responses. After reviewing the Record, counsel's report, and Myers' responses, we conclude

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

there are no issues with arguable merit for appeal. Therefore, we summarily affirm the judgment and order. *See* WIS. STAT. RULE 809.21.

Myers was convicted following no contest pleas to physical abuse of a child as a repeater and causing mental harm to a child. The offenses involved his teenage daughter. For his actions, the circuit court imposed an aggregate sentence of ten years of initial confinement and ten years of extended supervision. It also ordered Myers to comply with the sex offender registration program.²

After sentencing, Myers filed a postconviction motion for sentence modification. Specifically, Myers sought to vacate the order that he comply with the sex offender registration program. After a hearing on the matter, the circuit court denied the motion and reaffirmed its decision, making the required findings under WIS. STAT. § 973.048(1m)(a).³ This no-merit appeal follows.

The no-merit report addresses (1) whether Myers' pleas were knowingly, voluntarily, and intelligently entered; (2) whether the circuit court properly exercised its discretion at sentencing;

² The State originally charged Myers with crimes relating to sexual abuse of a child (i.e., repeated sexual assault of a child and incest). Those charges were later amended to crimes of physical and mental abuse as part of a plea agreement.

³ WISCONSIN STAT. § 973.048(1m)(a) provides in relevant part:

[I]f a court imposes a sentence or places a person on probation for any violation ... under ch. ... 948 ... the court may require the person to comply with the reporting requirements under s. 301.45 [the sex offender registration statute] if the court determines that the underlying conduct was sexually motivated, as defined in s. 980.01(5), and that it would be in the interest of public protection to have the person report under s. 301.45.

and (3) whether the court properly denied Myers' postconviction motion. This court is satisfied that the no-merit report correctly analyzes the issues it raises as without merit.

As noted, Myers filed multiple responses to counsel's no-merit report. In them, he seeks to withdraw his pleas, primarily on grounds that he felt pressured into entering them by both his attorney pushing him to take the State's offer and the lack of time he had to research his options. Myers also complains that he was never shown a copy of the amended complaint.

We are not persuaded that Myers' responses present an issue of arguable merit. At the plea hearing, Myers expressly affirmed that he was entering his pleas on his own free will and that he had not been forced to do so in any way. He cannot take an inconsistent position now. *See State v. Michels*, 141 Wis. 2d 81, 97-98, 414 N.W.2d 311 (Ct. App. 1987). Moreover, there was no amended complaint entered in his case—only an amended information, which the circuit court discussed at the plea hearing.⁴

Our review of the Record discloses no other potential issues for appeal.⁵ Accordingly, this court accepts the no-merit report, affirms the judgment and order, and discharges appellate counsel of the obligation to represent Myers further in this appeal.

Upon the foregoing reasons,

⁴ There was, of course, a complaint filed in the case. Myers acknowledged receiving it at the initial appearance. The circuit court relied upon the facts alleged in the complaint in accepting Myers' pleas.

⁵ Myers' pleas forfeited the right to raise other nonjurisdictional defects and defenses, including claimed violations of constitutional rights. *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.

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

IT IS FURTHER ORDERED that Attorney Carlos Bailey is relieved of further representation of Robert J. Myers 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