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DISTRICT I

September 9, 2025

To:

Hon. Paul R. Van Grunsven
Circuit Court Judge
Electronic Notice

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

Jill Marie Skwor
Electronic Notice

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Anton C. Tyree 602830
New Lisbon Correctional Inst.
P.O. Box 2000
New Lisbon, WI 53950-2000

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

2024AP1149-CRNM	State of Wisconsin v. Anton C. Tyree (L.C. # 20201CF1260)
2024AP1150-CRNM	State of Wisconsin v. Anton Christopher Tyree (L.C. # 2021CF2402)
2024AP1151-CRNM	State of Wisconsin v. Anton Christopher Tyree (L.C. # 2021CF2684)
2024AP1152-CRNM	State of Wisconsin v. Anton Christopher Tyree (L.C. # 2021CF4156)

Before White, C.J., Donald, and Geenen, 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).

In these consolidated matters, Anton C. Tyree appeals from judgments, entered on his guilty pleas, convicting him of 13 felonies. He additionally appeals the order denying his

postconviction motion.¹ Appellate counsel, Jill M. Skwor, filed a no-merit report, pursuant to *Anders v. California*, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32 (2023-24).² Tyree was advised of his right to file a response and elected not to do so. Upon consideration of the no-merit report and an independent review of the records, this court concludes that the judgments and order may be summarily affirmed because there is no arguable merit to any issue that could be raised on appeal. *See* WIS. STAT. RULE 809.21.

In Milwaukee County Case No. 2021CF1260, the State charged Tyree with three felonies: possession with intent to deliver cocaine, more than 15 grams but less than 40 grams, as a second or subsequent offense; fleeing/eluding an officer causing damage to property; and second-degree recklessly endangering safety. The charges stemmed from a traffic stop that police officers attempted to initiate on April 1, 2021. The complaint alleged that instead of stopping, Tyree sped away, driving over nine miles at rates of speed reaching 90 miles per hour, disregarding more than 25 stop signs and 10 red lights. He drove into oncoming lanes of traffic before colliding with another vehicle. Tyree fled on foot but was apprehended by police officers. When the officers searched him, they found more than \$6,300. When officers searched the vehicle Tyree was driving, they recovered suspected cocaine, a black digital scale, and a gun magazine, among other items. The suspected cocaine weighed 26.28 grams. The complaint alleged that Tyree previously was convicted of possession with intent to deliver cocaine.

¹ The Honorable Carolina Stark presided over the combined plea hearing in these matters. The Honorable Jeffrey A. Wagner sentenced Tyree and entered the judgments of conviction. The Honorable Paul R. Van Grunsven issued the order denying Tyree's postconviction motion.

² All references to the Wisconsin Statutes are to the 2023-24 version.

In Milwaukee County Case No. 2021CF2402, the State charged Tyree with four felonies: fleeing/eluding an officer; second-degree recklessly endangering safety; possession with intent to deliver cocaine, more than one gram but less than five grams, as a second and subsequent offense; and felony bail jumping. The complaint alleged that on June 13, 2021, police officers observed a vehicle without license plates drive at an excessive rate of speed and disregard multiple stop signs. The officers activated the emergency lights and sirens of their marked police vehicle but the driver sped away. A pursuit followed, spanning over 17 miles and reaching speeds of 115 miles per hour, ending when the vehicle crashed into a tree. Tyree was driving. When the officers searched him, they found a plastic bag of suspected cocaine weighing 1.84 grams and more than \$1,700. When they searched the vehicle he was driving, which was stolen, the officers found plastic sandwich bags, digital scales, three cell phones, and paperwork belonging to Tyree. The complaint further alleged that Tyree previously was convicted of possession with intent to deliver cocaine and was out on bail in Case No. 2021CF1260.

In Milwaukee County Case No. 2021CF2684, the State charged Tyree with three felonies: possession with intent to deliver cocaine, more than 15 grams but less than 40 grams, with use of a dangerous weapon; possessing a firearm as a felon as a repeat firearm crime; and felony bail jumping. The complaint alleged that on June 28, 2021, police officers responded to a ShotSpotter alert. The officers observed two men, one of whom was Tyree, and saw that Tyree had what appeared to be the black handle of a firearm in his right front vest pocket. As the officers spoke to Tyree, he got into a vehicle and attempted to leave. The officers stopped and arrested him. Upon searching Tyree, the officers recovered a loaded handgun, bags containing suspected cocaine, methamphetamine pills, and marijuana. The suspected cocaine weighed

30.91 grams and the marijuana weighed 18.88 grams. The complaint again alleged that Tyree previously was convicted of possession with intent to deliver cocaine, and at the time of the offenses, Tyree was out on bail in Case Nos. 2021CF1260 and 2021CF2402.

In Milwaukee County Case No. 2021CF4156, the State charged Tyree with six felonies: possession with intent to deliver cocaine in an amount greater than one gram but less than five grams, with the enhancers for habitual criminality, using a dangerous weapon, and repeat firearm crimes; possession with intent to deliver methamphetamine in an amount of three grams or less, with the enhancers for habitual criminality, using a dangerous weapon, and serious violent crime repeater; possession of a firearm by a felon, with enhancers for habitual criminality and repeat firearm crimes; and three counts of felony bail jumping with enhancers for habitual criminality. According to the complaint, on September 30, 2021, a police officer observed Tyree engage in what appeared to be a hand-to-hand drug transaction. Officers then learned Tyree was in a stolen vehicle and initiated a traffic stop.

When the officers searched Tyree, they found three cell phones and more than \$1,400. When they searched the vehicle Tyree was driving, the officers recovered a loaded gun and two digital scales. The officers also found a bag containing a substance that later tested positive for both cocaine and fentanyl, methamphetamine, and other narcotics. The complaint referenced Tyree's prior conviction for possession with intent to deliver cocaine and the fact that he was out on bail in Case Nos. 2021CF2684, 2021CF2402, and 2021CF1260.

Pursuant to negotiations, Tyree agreed to plead guilty to 13 felonies. In exchange, the State moved to have the remaining charges, along with various penalty enhancers, dismissed and

read-in at sentencing. The State additionally agreed to recommend a global sentence of 15 years of initial confinement without a specific recommendation as to the length of extended supervision. The agreement further specified that the State would be requesting the restitution sought by the victim who incurred property damage in Case No. 2021CF1260.

Ultimately, the circuit court imposed a 44-year sentence, comprised of 23 years of initial confinement and 21 years of extended supervision.³ Tyree stipulated to the requested restitution,⁴ and the court deemed him eligible for the Challenge Incarceration and the Substance Abuse Programs.

Tyree sought postconviction relief arguing that the circuit court failed to advise him it was not bound by the plea negotiations and additionally asserting that he received ineffective assistance of counsel. Tyree claimed trial counsel told him that the plea negotiations were for a total of 15 years of imprisonment, which would encompass both initial confinement and extended supervision. The State conceded that the circuit court neglected to expressly ask Tyree during the plea hearing whether he knew the court was not bound by the plea agreement. *State v. Hampton*, 2004 WI 107, ¶42, 274 Wis. 2d 379, 683 N.W.2d 14 (“[T]he court must engage in a colloquy with the defendant on the record at the plea hearing to ascertain whether the defendant

³ The circuit court commuted three of Tyree’s sentences after being informed by the Department of Corrections that they appeared to exceed the legal maximums.

In the no-merit report, counsel contends that Tyree faces sentences totaling 42 years, comprised of 23 years of initial confinement and 19 years of extended supervision. We note that the sentencing attachment counsel provided with the no-merit report appears to contain a computation error as to the amount of extended supervision imposed in Case No. 2021CF2684.

⁴ The no-merit report notes, and our review confirms, that the judgment of conviction for Case No. 2021CF1260 does not reflect that restitution was ordered.

understands that the court is not bound by a sentencing recommendation from the prosecutor or any other term of the defendant's plea agreement.").

Before denying the motion, the circuit court held an evidentiary hearing where it heard testimony from Tyree and his attorneys. The court found Tyree's testimony that he had been advised by trial counsel that the State's sentence recommendation was for a total of 15 years contradicted the testimony of the two attorneys who represented him, the plea questionnaire and waiver of rights form, and common sense. The court additionally found that trial counsel advised Tyree that there was always a possibility that the court would reject the State's sentence recommendation and impose a higher sentence. The court concluded that Tyree's testimony was not credible and that there was no basis on which to conclude trial counsel was ineffective. These no-merit appeals follow.

The comprehensive no-merit report begins by addressing whether the circuit court erred when it denied Tyree's postconviction motion. A defendant seeking to withdraw his or her plea after sentencing "must prove, by clear and convincing evidence, that a refusal to allow withdrawal of the plea would result in 'manifest injustice.'" *State v. James Brown*, 2006 WI 100, ¶18, 293 Wis. 2d 594, 716 N.W.2d 906 (citation omitted). This court reviews the circuit court's decision to deny a plea withdrawal motion under the erroneous exercise of discretion standard. *State v. Savage*, 2020 WI 93, ¶24, 395 Wis. 2d 1, 951 N.W.2d 838. Under this standard, we "examine the record to gauge whether the circuit court reached a reasonable conclusion based on proper legal standards and a logical interpretation of the facts." *State v. Evans*, 2000 WI App 178, ¶7, 238 Wis. 2d 411, 617 N.W.2d 220.

The circuit court found that despite the omission in the colloquy, Tyree’s trial counsel properly advised Tyree that the court was not bound by the parties’ sentencing recommendations and could impose sentences up to the maximum for each of the counts to which he pled guilty. The court specifically found that Tyree’s testimony that his trial counsel did not properly advise him that the court was not bound by the State’s sentence recommendation incredible and unsupported by the record. Based on the evidence in the record, the court’s credibility determinations are not clearly erroneous. As such, we will not disturb them on appeal. *See State v. Terrance J.W.*, 202 Wis. 2d 496, 501, 550 N.W.2d 445 (Ct. App. 1996). Given those credibility determinations, there would be no arguable merit to a claim that the circuit court erred when it denied Tyree’s motion for plea withdrawal. The record does not establish that any form of manifest injustice exists.

The no-merit report goes on to analyze whether Tyree should be allowed to withdraw his guilty pleas on any other basis and whether the circuit court properly exercised its sentencing discretion. Our review of the records and of counsel’s analysis in the no-merit report satisfies us that, beyond the already-discussed *Hampton* issue, the circuit court complied with its obligations for taking the guilty pleas, pursuant to WIS. STAT. § 971.08, *State v. Bangert*, 131 Wis. 2d 246, 261-62, 389 N.W.2d 12 (1986), and *James Brown*, 293 Wis. 2d 594, ¶35. As to sentencing, the circuit court considered appropriate sentencing objectives and imposed sentences based on various sentencing criteria applied to the facts of this case. *See State v. John Brown*, 2006 WI 131, ¶26, 298 Wis. 2d 37, 725 N.W.2d 262. There would be no arguable merit to claims on these grounds.

Our review of the records discloses no other potential issues for appeal.⁵

Therefore,

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

IT IS FURTHER ORDERED that Attorney Jill M. Skwor is relieved from further representing Anton C. Tyree in these matters. *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

⁵ We note that Tyree's pleas forfeited the right to raise 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.