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DISTRICT II

October 22, 2025

To:

Hon. Sandy A. Williams
Circuit Court Judge
Electronic Notice

John Blimling
Electronic Notice

Connie Mueller
Clerk of Circuit Court
Ozaukee County Justice Center
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Timothy C. Drewa
Electronic Notice

Michael Francis Hekenberger #363219
Redgranite Correctional Inst.
P.O. Box 925
Redgranite, WI 54970-0925

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

2025AP344-CRNM State of Wisconsin v. Michael Francis Hekenberger
(L.C. #2023CF130)

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).

Michael Francis Hekenberger appeals from a judgment convicting him of operating a motor vehicle while under the influence (OWI) as a seventh offense. 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). Hekenberger filed a response. Counsel then filed a supplemental no-merit report. After reviewing the Record, counsel's reports, and Hekenberger's response, 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. *See* WIS. STAT. RULE 809.21.

Hekenberger was convicted following a guilty plea to OWI as a seventh offense. He was stopped for driving over the center and fog lines and observed to be under the influence of an intoxicant. The circuit court sentenced Hekenberger to five years of initial confinement and five years of extended supervision. This no-merit appeal follows.

The no-merit report addresses whether Hekenberger's plea was knowingly, voluntarily, and intelligently entered, and whether the circuit court properly exercised its discretion at sentencing. This court is satisfied that the no-merit report correctly analyzes the issues it raises as without merit.

As noted, Hekenberger filed a response to counsel's no-merit report. In it, he asserts that his plea was based upon his trial counsel's promises. Specifically, he claims that his trial counsel told him that "he would only get a 2-year sentence."

We are not persuaded that Hekenberger's response presents an issue of arguable merit. As noted in the supplemental no-merit report, the Record conclusively refutes Hekenberger's claim for two reasons: (1) Hekenberger confirmed his understanding of the three-year mandatory minimum sentence for his crime when entering his plea; and (2) Hekenberger's trial counsel requested a sentence that exceeded two years. In addition, at the plea hearing, Hekenberger expressly affirmed that he was entering his plea of his own free will and that no one had promised him anything. 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).

Our review of the Record discloses no other potential issues for appeal.² Accordingly, this court accepts the no-merit report, affirms the judgment of conviction, and discharges appellate counsel of the obligation to represent Hekenberger 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 Timothy C. Drewa is relieved of further representation of Michael Francis Hekenberger 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

² Hekenberger's plea 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.