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DISTRICT IV

October 30, 2025

To:

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Circuit Court Judge
Electronic Notice

Cindy Hamre Incha
Clerk of Circuit Court
Jefferson County Courthouse
Electronic Notice

Thomas Brady Aquino
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Travis J. Kretschmer 354736
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You are hereby notified that the Court has entered the following opinion and order:

2023AP2276-CRNM State of Wisconsin v. Travis J. Kretschmer (L.C. # 2020CF383)

Before Graham, P.J., Blanchard, and Nashold, 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).

Travis Kretschmer appeals a judgment of conviction for one count of incest with a child by a stepparent. Attorney Andrew Hinkel has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2023-24).[1] Attorney Thomas Aquino has substituted as no-merit counsel.

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

The no-merit report addresses whether there would be arguable merit to a challenge to Kretschmer's plea or sentencing. Kretschmer filed a response to the no-merit report raising issues related to a potential claim for plea withdrawal, and counsel did not file a supplemental no-merit report addressing those issues. After reviewing the no-merit report, response, and the record, this court issued an order directing no-merit counsel to address whether there would be arguable merit to a postconviction motion for plea withdrawal based on the assertions in Kretschmer's no-merit response.

In response to this court's order, no-merit counsel has filed a supplemental no-merit report concluding that there would be no arguable merit to a claim for plea withdrawal based on the assertions in the no-merit response. Having reviewed the no-merit report, response, and supplemental no-merit report, as well as having independently reviewed the entire record as mandated by ***Anders v. California***, 386 U.S. 738, 744 (1967), we agree that there are no issues of arguable merit to pursue. We summarily affirm the judgment of conviction. *See* WIS. STAT. RULE 809.21.

The State charged Kretschmer with two counts of incest with a child by a stepparent and two counts of sexual intercourse with a child aged sixteen or older. Pursuant to a plea agreement, Kretschmer pled no-contest to one count of incest with a child by a stepparent.[2] The remaining counts, as well as two uncharged offenses, were dismissed and read in for sentencing purposes. The parties jointly recommended a sentence of eight years of initial confinement and

[2] The judgment of conviction indicates that Kretschmer pled guilty to incest with a child by a stepparent. However, the plea hearing transcript reflects that Kretschmer entered a no-contest plea. We direct the circuit court to correct this scrivener's error in the judgment of conviction upon remittitur. *See* ***State v. Prihoda***, 2000 WI 123, ¶29, 239 Wis. 2d 244, 618 N.W.2d 857 (holding that the circuit court may correct clerical errors at any time).

ten years of extended supervision, imposed and stayed, with twelve months of conditional jail time and ten years of probation. The court imposed five years of initial confinement and ten years of extended supervision. The court awarded five days of sentence credit, on counsel's stipulation.

The no-merit report addresses whether there would be arguable merit to a challenge to the validity of Kretschmer's plea. We agree with counsel's assessment that a challenge to Kretschmer's plea would be wholly frivolous. A post-sentencing motion for plea withdrawal must establish that plea withdrawal is necessary to correct a manifest injustice, such as a plea that was not knowing, intelligent, and voluntary. ***State v. Brown***, 2006 WI 100, ¶18, 293 Wis. 2d 594, 716 N.W.2d 906. Here, the circuit court conducted a plea colloquy that, together with the plea questionnaire that Kretschmer signed, satisfied the circuit court's mandatory duties to personally address Kretschmer and determine information such as Kretschmer's understanding of the nature of the charge and the range of punishments he faced, the constitutional rights he waived by entering a plea, and the direct consequences of the plea.[3] *See* ***State v. Hoppe***, 2009 WI 41, ¶¶18, 30, 317 Wis. 2d 161, 765 N.W.2d 794. There is no indication of any other basis for plea withdrawal. A valid guilty or no-contest plea constitutes a waiver of all nonjurisdictional defects and defenses. ***State v. Kelty***, 2006 WI 101, ¶18, 294 Wis. 2d 62, 716 N.W.2d 886.

[3] The no-merit report notes that the circuit court failed to personally inform Kretschmer of the potential immigration consequences of his plea, as mandated by WIS. STAT. § 971.08(1)(c). However, no-merit counsel states that there would be no factual basis to support a claim for plea withdrawal based on the lack of immigration warnings. *See* ***State v. Negrete***, 2012 WI 92, ¶26, 343 Wis. 2d 1, 819 N.W.2d 749 (to seek plea withdrawal based on lack of immigration warnings, a defendant must show that the plea is likely to result in deportation, exclusion from admission, or denial of naturalization).

The no-merit report also addresses whether there would be arguable merit to a challenge to the circuit court's exercise of its sentencing discretion. Our review of a sentence determination begins "with the presumption that the trial court acted reasonably, and the defendant must show some unreasonable or unjustifiable basis in the record for the sentence complained of." ***State v. Krueger***, 119 Wis. 2d 327, 336, 351 N.W.2d 738 (Ct. App. 1984). The record establishes that Kretschmer was afforded the opportunity to address the court prior to sentencing. The court explained that it considered facts pertinent to the standard sentencing factors and objectives, including the seriousness of the offense, Kretschmer's rehabilitative needs, and the need to protect the public. *See* ***State v. Gallion***, 2004 WI 42, ¶¶39-46 & n.11, 270 Wis. 2d 535, 678 N.W.2d 197. The sentence was within the maximum Kretschmer faced and, given the facts of this case, there would be no arguable merit to a claim that the sentence was unduly harsh or excessive. *See* ***State v. Stenzel***, 2004 WI App 181, ¶21, 276 Wis. 2d 224, 688 N.W.2d 20 (a sentence is unduly harsh or excessive "only where the sentence is so excessive and unusual and so disproportionate to the offense committed as to shock public sentiment and violate the judgment of reasonable people concerning what is right and proper under the circumstances" (quoted source omitted)). We discern no nonfrivolous basis to challenge the court's exercise of its sentencing discretion.

Kretschmer asserts in his no-merit response that he was "extremely intoxicated on a mix of clonazepam and alcohol" and thus "[d]uring this time" he has "no memory," apparently referring to the time of the alleged sexual assault. Kretschmer asserts that a potential witness named Lisa Miller gave a statement that, at some point, Kretschmer stayed at her place in Elkhorn, Wisconsin, but that Miller could not remember the exact dates. After sentencing, Kretschmer "found out about" relevant text messages between his mother and the victim's

mother that, together with Miller's statement, would have established that Kretschmer was staying with Miller in Elkhorn during the time of the alleged sexual assaults in September 2020 in Whitewater. Kretschmer asserts that, had he been aware of the existence of the text messages, he would not have entered a plea, but instead would have gone to trial.

The supplemental no-merit report concludes that there would be no arguable merit to further proceedings based on the assertions in the no-merit response. It explains that the messages between Kretschmer's mother and the victim's mother are consistent with the timeline of the State's allegations. It also explains that counsel was unable to locate a statement by Miller but that, even if Miller provided a statement that Kretschmer was staying with her at the time of the sexual assaults, that statement would not have provided Kretschmer with an alibi given the proximity of Elkhorn to Whitewater. Thus, the supplemental no-merit report concludes, there would be no arguable merit to a claim for plea withdrawal based on the messages between Kretschmer's mother and the victim's mother or a statement by Miller that Kretschmer was staying with her in Elkhorn at the time of the alleged sexual assaults. This court agrees with the analysis of this issue as set forth in the supplemental no-merit report, and does not address it further.

Kretschmer also asserts in his no-merit response that there was no DNA evidence collected that established his guilt. However, that claim does not support a nonfrivolous argument for plea withdrawal. Kretschmer cites no authority for the proposition that DNA evidence was required to support his no-contest plea. He also does not show that the lack of DNA evidence would support a claim that his plea was not knowing, intelligent, and voluntary.

Our independent review of the record discloses no other potential issues for appeal. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of ***Anders***.

Therefore,

IT IS ORDERED that the judgment of conviction is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Thomas Aquino is relieved of any further representation of Travis Kretschmer in this matter pursuant to WIS. STAT. RULE 809.32(3).

IT IS FURTHER ORDERED that upon remittitur, the circuit court shall correct a scrivener's error in the judgment of conviction, as outlined in this decision.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Samuel A. Christensen
Clerk of Court of Appeals