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DISTRICT I

November 18, 2025

To:

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

Anna Hodges
Clerk of Circuit Court
Milwaukee County Safety Building
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Derrion Orlando Parnell Dalton 675569
Columbia Corr. Inst.
P.O. Box 900
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You are hereby notified that the Court has entered the following opinion and order:

2024AP2026-CRNM State of Wisconsin v. Derrion Orlando Parnell Dalton
(L.C. # 2021CF3177)

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).

Derrion Orlando Parnell Dalton appeals his judgment of conviction for the manufacture/delivery of cocaine, and the order denying his postconviction motion. His appellate counsel, Attorney Jill Marie Skwor, filed a no-merit report pursuant to ***Anders v. California***, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32 (2023-24).[1] Dalton was advised of his right to file a response, but he did not do so. Upon this court's independent review of the record as mandated

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

by ***Anders***, and counsel's report, we conclude there are no issues of arguable merit that could be pursued on appeal. We therefore summarily affirm.

Dalton was charged with two counts of the manufacture/delivery of cocaine after several controlled buys in July and August 2020 involving a confidential informant. He opted to resolve the charges with a plea in which he pled guilty to one of the counts, and the other count was dismissed and read in for sentencing purposes. The circuit court imposed a term of 18 months of initial confinement followed by 24 months of extended supervision, to be served consecutively to a revocation term Dalton was serving on an unrelated case.[2]

At the sentencing hearing, Dalton's trial counsel stated that he had disclosed several mental health diagnoses to her, but that she did not have confirmation of these diagnoses. The circuit court acknowledged this, noting that there was no evidentiary support or "information from any mental health professionals."

Dalton subsequently filed a postconviction motion seeking sentence modification on the grounds that his mental health issues constituted a new factor warranting modification. In his motion, Dalton—by appellate counsel—stated that he had received treatment for mental health conditions through the Wisconsin Department of Corrections, the Milwaukee Secure Detention

[2] Dalton was out on extended supervision in that unrelated case when the offenses in this case were committed. He had been convicted in that case of second-degree recklessly endangering safety, with a charge of fleeing an officer dismissed and read in at sentencing. The State further explained that Dalton remained out of custody for a time after the offenses in this case were committed because of a backlog of cases due to the COVID-19 pandemic. Additionally, while out of custody, Dalton was arrested and charged in two other cases, with counts that included armed robbery, operating a vehicle without consent, first-degree reckless injury, first-degree recklessly endangering safety, and felon in possession of a firearm; these charges were still pending at the time of Dalton's plea and sentencing in this case.

Facility, and the Milwaukee House of Corrections. Additionally, he was hospitalized several times for mental health issues while confined at the Cook County Juvenile Detention Center.

The circuit court rejected Dalton's argument. The court observed that other than referencing his incarceration records, Dalton had still not provided any records to confirm his diagnoses. Nevertheless, the court stated that even if Dalton's mental health conditions had been verified, it would have made no difference at sentencing or in its consideration of his postconviction motion. The court emphasized its focus on punishment in fashioning Dalton's sentence, noting that he "returned to criminal activity shortly after being released from prison for a serious felony, later facing even more serious charges while this case was pending." Therefore, the court stated that the sentence it imposed "was intended to punish [Dalton] for his actions and to deter his escalating criminality."

The circuit court further stated that it did not consider Dalton's mental health issues to be a new factor, since it was made aware of them at sentencing. However, the court concluded that even if Dalton's mental health issues were deemed to be a new factor, sentence modification was not warranted based on the need for punishment in this case. The court therefore denied Dalton's postconviction motion. This no-merit appeal follows.

The no-merit report considers whether there would be arguable merit to appealing the validity of Dalton's plea. A plea is not constitutionally valid if it is not knowingly, voluntarily, and intelligently entered. ***State v. Bangert***, 131 Wis. 2d 246, 257, 389 N.W.2d 12 (1986). This may be established if the requirements set forth in WIS. STAT. § 971.08 and ***Bangert*** are not met during the plea colloquy by the circuit court. ***State v. Brown***, 2006 WI 100, ¶¶23, 34-35, 293 Wis. 2d 594, 716 N.W.2d 906.

The record reflects that the plea colloquy by the circuit court complied with these requirements. Furthermore, the court confirmed that Dalton signed and understood the plea questionnaire and waiver of rights form, which further demonstrates that Dalton's pleas were knowingly, voluntarily, and intelligently entered. *See* ***State v. Moederndorfer***, 141 Wis. 2d 823, 827, 416 N.W.2d 627 (Ct. App. 1987). We therefore agree with appellate counsel's assessment that there would be no arguable merit to a challenge of the validity of Dalton's pleas.

With regard to sentencing, the circuit court properly exercised its discretion in considering proper and relevant sentencing objectives and factors. *See* ***State v. Gallion***, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197; ***State v. Ziegler***, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. As stated above, the court's focus here was on the principal sentencing objective of punishment, which was fully within its discretion. *See* ***id.***

Furthermore, Dalton's sentence was well within the statutory maximums, and is therefore presumed not to be unduly harsh or unconscionable. *See* ***State v. Grindemann***, 2002 WI App 106, ¶32, 255 Wis. 2d 632, 648 N.W.2d 507. Therefore, we agree with appellate counsel's conclusion that there would be no arguable merit to a challenge of Dalton's sentence.

The no-merit report also considers whether there would be arguable merit to a challenge of the circuit court's denial of Dalton's postconviction motion, where he argued that his mental health issues constitute a new factor for purposes of sentence modification. A new factor is "a fact or set of facts highly relevant to the imposition of sentence, but not known to the trial judge at the time of original sentencing, either because it was not then in existence or because ... it was unknowingly overlooked by all of the parties." ***State v. Harbor***, 2011 WI 28, ¶40, 333 Wis. 2d 53, 797 N.W.2d 828 (citation omitted). To prevail, a defendant must satisfy a two-prong test that

requires the defendant to: (1) demonstrate by clear and convincing evidence that a new factor exists; and (2) show that the alleged new factor justifies sentence modification. ***Id.***, ¶¶36-38. The court may consider either prong first, and if a defendant fails to satisfy one prong of the new factor test, the court need not address the other. ***Id.***, ¶38.

As discussed above, the circuit court found that Dalton had not satisfied either prong of the ***Harbor*** test. In particular, the court focused on the second prong of the test, exercising its discretion in determining that sentence modification was not warranted. *See* ***id.***, ¶37. When reviewing this issue, an appellate court will conclude that the circuit court did not erroneously exercise its discretion if the circuit court "made no error of law," and if it "explained its reason for concluding that the facts … presented did not justify modification" of the defendant's sentence. ***Id.***, ¶63.

The record here reflects that the circuit court properly applied the ***Harbor*** test, and supports its conclusion that sentence modification was not warranted. We therefore agree with appellate counsel's conclusion that there would be no arguable merit to a challenge of the order denying Dalton's postconviction motion.

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

Therefore,

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

IT IS FURTHER ORDERED that Attorney Jill Marie Skwor is relieved of further representation of Dalton 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