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**DISTRICT II**

December 17, 2025

*To:*

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Circuit Court Judge  
Electronic Notice

Jeffrey W. Jensen  
Electronic Notice

Michelle Weber  
Clerk of Circuit Court  
Fond du Lac County Courthouse  
Electronic Notice

Sara Lynn Shaeffer  
Electronic Notice

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

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2024AP224-CR

State of Wisconsin v. James T. Schumann (L.C. #2019CF641)

Before Neubauer, P.J., Gundrum, 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).**

James T. Schumann appeals a judgment convicting him after a no-contest plea to first-degree sexual assault (sexual contact with a child under the age of 13), and an order denying his postconviction motion. He argues that he received ineffective assistance of counsel because his attorney did not move to suppress his incriminating statements. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary

disposition. *See* WIS. STAT. RULE 809.21 (2023-24).<sup>1</sup> For the following reasons, we affirm the judgment and order.

Schumann went to the police station with police detectives at their request to discuss a matter under investigation. He gave statements to the police incriminating himself in the sexual assault of a child. Schumann entered a no-contest plea and was convicted.

After sentencing, Schumann moved to withdraw his plea, arguing that he received ineffective assistance of trial counsel because his attorney neither advised him about nor filed a motion to suppress his statements on the ground that he did not receive warnings from the detectives pursuant to *Miranda v. Arizona*, 384 U.S. 436 (1966). The circuit court held a postconviction motion evidentiary hearing. The court found Schumann was not in custody during questioning and, therefore, the detectives were not required to give him *Miranda* warnings. Accordingly, the court concluded that counsel was not ineffective for failing to move to suppress. This appeal follows.

The police must provide *Miranda* warnings before questioning only if a person is in custody. *See State v. Lonkoski*, 2013 WI 30, ¶5, 346 Wis. 2d 523, 828 N.W.2d 552. Custody means “a formal arrest or restraint on freedom of movement of the degree associated with a formal arrest.” *Id.*, ¶6. To determine whether a person was in custody, we look at the totality of the circumstances, including “the defendant’s freedom to leave; the purpose, place, and length of the interrogation; and the degree of restraint.” *Id.*

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2023-24 version.

To prove ineffective assistance of counsel, a defendant must show that his attorney performed deficiently and the deficient performance prejudiced him. *Strickland v. Washington*, 466 U.S. 668, 687-94 (1984). In the plea context, prejudice asks whether, but for counsel's error, the defendant would have rejected the plea and gone to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985).

Our standard of review when a defendant argues that he received ineffective assistance of counsel "is a mixed question of fact and law." *State v. Erickson*, 227 Wis. 2d 758, 768, 596 N.W.2d 749 (1999). "We will not disturb the circuit court's findings of fact unless they are clearly erroneous." *Id.* Whether an attorney rendered constitutionally ineffective assistance under the *Strickland* standard is a question of law that we review independently. *Id.*

At the postconviction motion hearing, the circuit court viewed the recorded interrogation, heard testimony from Detective William Ledger, who interviewed Schumann, and heard argument from the parties. The court stated that the sole issue was whether Schumann was in custody when he was questioned.

The court found that Schumann voluntarily traveled from his home to the police station in the front seat of an unmarked car at the detectives' request. The detectives told him he did not have to come, but that they would like him to. They did not place Schumann under arrest or handcuff him. He was questioned in an interview room at the police station, and the interview room was unlocked. Schumann was never told that he was free to leave, but he never asked to do so until the end of the interview. He was offered water, and the interview lasted about an hour. The detective's tone during interrogation was calm and focusing on gathering information. No weapons were displayed, and no restraints or frisk occurred until Schumann was arrested.

after he confessed. These findings are supported by the record and are not clearly erroneous. Based on these findings, we conclude that a reasonable person in Schumann's position would not have experienced a restraint on freedom commensurate with formal arrest. *See Lonkoski*, 346 Wis. 2d 523, ¶30, ¶35.

Because the interrogation was non-custodial, *Miranda* warnings were not required and a suppression motion would have failed. Counsel was not deficient for declining to file a meritless suppression motion. *State v. Maloney*, 2005 WI 74, ¶37, 281 Wis. 2d 595, 698 N.W.2d 583. The circuit court correctly denied Schumann's argument that he received ineffective assistance of counsel.

Therefore,

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 this summary disposition order will not be published.

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*Samuel A. Christensen*  
*Clerk of Court of Appeals*