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DISTRICT III

December 16, 2025

To:

Hon. Donald R. Zuidmulder
Circuit Court Judge
Electronic Notice

John VanderLeest
Clerk of Circuit Court
Brown County Courthouse
Electronic Notice

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

2023AP1026-CRNM State of Wisconsin v. Ahmed Mohamed Abdulahi
(L. C. No. 2021CF6)

Before Gill, J.¹

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).

Counsel for Ahmed Abdulahi filed a no-merit report concluding that no grounds exist to challenge Abdulahi's conviction for misdemeanor battery, as a repeater, contrary to WIS. STAT. §§ 940.19(1) and 939.62(1)(a). (2023-24), or the denial of Abdulahi's postconviction motion for sentence modification. Abdulahi was informed of his right to file a response to the

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(f) (2023-24). All references to the Wisconsin Statutes are to the 2023-24 version.

no-merit report, and he has not responded. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude that there is no arguable merit to any issue that could be raised on appeal. Therefore, we summarily affirm the judgment of conviction. *See* WIS. STAT. RULE 809.21.

The State charged Abdulahi with aggravated battery of an elderly person, lewd and lascivious behavior, and disorderly conduct—all three counts as a repeater. According to the criminal complaint, Abdulahi engaged in an unprovoked attack on Jane,² a 62-year-old female. The complaint alleged that as Jane was approaching Abdulahi on a sidewalk, she “moved over into the snow bank” to allow him to pass, and without warning, he punched her in the face and continued to punch and hit her before kneeing her in the head, pulling her hair, and ripping off her face mask. The complaint further alleged that Abdulahi took a couple of steps away and flashed his genitals at Jane before getting back on top of her and striking her repeatedly. After Jane hit Abdulahi in the head with a hard piece of snow, he kicked her in the neck and walked away.

Abdulahi moved to dismiss the complaint based on the circuit court’s failure to hold a preliminary hearing within the time limits set forth in WIS. STAT. § 970.03(2). The court denied the motion.

As part of a subsequent plea agreement, the State amended the aggravated battery charge to misdemeanor battery. In exchange for Abdulahi’s no-contest plea to the amended charge, as a

² Pursuant to the policy underlying WIS. STAT. RULE 809.86(4), we use a pseudonym instead of the victim’s name.

repeater, the State agreed to recommend that the circuit court dismiss and read in the remaining charges. Out of a maximum possible sentence of 2 years, the circuit court imposed an 18-month term, consisting of 12 months of initial confinement followed by 6 months of extended supervision, to run consecutively to any other sentence Abdulahi was then serving.

Abdulahi filed a motion to modify his sentence based on the existence of a new factor. Specifically, the motion stated that after sentencing, Abdulahi was assessed as having a moderate to severe substance use disorder but, as a result of the consecutive sentence imposed in this case, he was ineligible to participate in any earned release program during the duration of his confinement. Abdulahi therefore requested a concurrent, rather than consecutive, sentence. After a hearing, the circuit court denied the motion. This no-merit appeal follows.

Upon an independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), this court questioned why counsel's no-merit report addressed only whether there was any arguable merit to challenge the denial of Abdulahi's postconviction motion for sentence modification. We therefore rejected the no-merit report and gave counsel the opportunity to: (1) explain why he discussed only the denial of Abdulahi's sentence modification motion; (2) file a new no-merit report explaining why there is no arguable merit to any of the issues that may be raised on appeal; (3) file a postconviction motion; or (4) file a brief on the merits of an appeal.

In his response, counsel states that Abdulahi's plea waived his right to challenge the circuit court's denial of his motion to dismiss. See *State v. Aniton*, 183 Wis. 2d 125, 129, 515 N.W.2d 302 (Ct. App. 1994) (holding that a guilty or no-contest plea, made knowingly and voluntarily, waives all nonjurisdictional defects and defenses, including alleged violations of

constitutional rights prior to the plea). Although counsel acknowledges that a defendant may seek plea withdrawal as a means to preserve an otherwise waived issue, *see State v. Riekkoff*, 112 Wis. 2d 119, 130, 332 N.W.2d 744 (1983), he asserts that Abdulahi “affirmatively decided, with the assistance of appellate counsel, to not pursue a postconviction motion for plea withdrawal, which was arguably available to him on direct appeal.” With this explanation, we will vacate that part of our earlier order striking the no-merit report.

Although it appears that Abdulahi has waived any challenge to the legitimacy of his plea, we nevertheless conclude that the record discloses no arguable basis for withdrawing Abdulahi’s no-contest plea. The circuit court’s plea colloquy, as supplemented by a plea questionnaire and waiver of rights form that Abdulahi signed, informed Abdulahi of the elements of the offense, the penalties that could be imposed, and the constitutional rights he waived by entering a no-contest plea. Additionally, the court properly found that a sufficient factual basis existed in the record to support the conclusion that Abdulahi committed the crime charged.

Although the circuit court failed to inform Abdulahi that it was not bound by the terms of the plea agreement, as required under *State v. Hampton*, 2004 WI 107, ¶2, 274 Wis. 2d 379, 683 N.W.2d 14, Abdulahi received the benefit of the plea agreement. Therefore, this defect in the colloquy does not present a manifest injustice warranting plea withdrawal. *See State v. Johnson*, 2012 WI App 21, ¶12, 339 Wis. 2d 421, 811 N.W.2d 441. The court also failed to advise Abdulahi of the deportation consequences of his plea, as mandated by WIS. STAT. § 971.08(1)(c). However, the record shows that Abdulahi is a United States citizen not subject to deportation. Any challenge to the plea on this basis would therefore lack arguable merit. The record shows the plea was knowingly, voluntarily and intelligently made. *See State v. Bangert*, 131 Wis. 2d 246, 257, 389 N.W.2d 12 (1986).

Although the no-merit report does not address it, the record discloses no arguable basis for challenging the sentence imposed. Before imposing a sentence authorized by law, the circuit court considered the seriousness of the offense, Abdulahi's character, and the need to protect the public. See *State v. Gallion*, 2004 WI 42, ¶¶39-46, 270 Wis. 2d 535, 678 N.W.2d 197. The court placed particular emphasis on the severity of the crime and the need to protect the community from an individual who would commit an unprovoked assault on a stranger.

There is a presumption that Abdulahi's 18-month sentence, which is well within the 2-year maximum allowed by law, is not unduly harsh or unconscionable, nor "so excessive and unusual" as to shock public sentiment. See *State v. Grindemann*, 2002 WI App 106, ¶¶31-32, 255 Wis. 2d 632, 648 N.W.2d 507; see also *Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). Further, there is no arguable merit to any claim that the conditions of extended supervision were not "reasonable and appropriate" under the circumstances of this case. See *State v. Koenig*, 2003 WI App 12, ¶7, 259 Wis. 2d 833, 656 N.W.2d 499 (2002).

The no-merit report addresses whether there are any grounds to challenge the denial of Abdulahi's postconviction motion for sentence modification. Upon reviewing the record, we agree with counsel's description, analysis, and conclusion that any challenge to the denial of his postconviction motion would lack arguable merit. The no-merit report sets forth an adequate discussion of this potential issue to support the no-merit conclusion, and we need not address it further. An independent review of the record discloses no other potential issues for appeal.

Therefore,

IT IS ORDERED that the part of our October 25, 2024 order striking the no-merit report is vacated.

IT IS FURTHER ORDERED that the judgment of conviction and postconviction order are summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Jeremy A. Newman is relieved of his obligation to further represent Ahmed Abdulahi in this matter. *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