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DISTRICT III

December 23, 2025

To:

Hon. James C. Babler
Circuit Court Judge
Electronic Notice

Sharon Millermon
Clerk of Circuit Court
Barron County Justice Center
Electronic Notice

Katie Babe
Electronic Notice

John Blimling
Electronic Notice

Adam M. Swartz 514344
Columbia Correctional Institution
P.O. Box 900
Portage, WI 53901-0900

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

2025AP854-CRNM	State of Wisconsin v. Adam M. Swartz (L. C. No. 2021CF338)
2025AP855-CRNM	State of Wisconsin v. Adam M. Swartz (L. C. No. 2022CF278)
2025AP856-CRNM	State of Wisconsin v. Adam M. Swartz (L. C. No. 2022CF281)
2025AP857-CRNM	State of Wisconsin v. Adam M. Swartz (L. C. No. 2022CF282)

Before Stark, P.J., Hruz, and Gill, 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).

In these consolidated appeals, counsel for Adam M. Swartz has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2023-24),¹ concluding that no grounds exist to challenge Swartz's convictions for one count of felony bail jumping and three counts of operating a motor vehicle without the owner's consent. Swartz was informed of his right to file a response to the

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

no-merit report, but he has not responded. Upon our independent review of the appellate records 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 judgments of conviction. *See* WIS. STAT. RULE 809.21.

In Barron County Case No. 2021CF338, the State charged Swartz with one count of disorderly conduct and one count of felony bail jumping. The complaint alleged that on October 23, 2021, Swartz approached a woman in a parking lot and asked her for a ride. When the woman refused, Swartz became angry, told her that he hoped she would “die and burn,” and started “throwing sticks around and near her.” The woman feared for her safety and called the police. The complaint further alleged that at the time of these events, Swartz was released on bond in another case in which he was charged with a felony, and his bond conditions required him not to commit any new crimes.

Thereafter, in Barron County Case No. 2022CF278, the State charged Swartz with one count of operating a motor vehicle without the owner’s consent, one count of felony criminal damage to property, and one count of theft of moveable property (value greater than \$2,500 but not exceeding \$5,000). According to the complaint in that case, on November 23, 2021, Swartz took and drove a 2001 Chevrolet Silverado pickup truck without the owner’s consent. When the truck was recovered several days later, personal property was missing from it, and it had sustained more than \$2,500 in damage.

In Barron County Case No. 2022CF281, the State charged Swartz with one count of operating a motor vehicle without the owner’s consent and one count of misdemeanor criminal

damage to property. The complaint alleged that on the evening of November 30 to December 1, 2021, Swartz took and drove a 1990 Nissan pickup truck without the owner's consent. When the truck was recovered, one of the tires was "blown out," even though all of the tires had been in good condition when the truck was taken.

Finally, in Barron County Case No. 2022CF282, the State charged Swartz with one count of operating a motor vehicle without the owner's consent and one count of felony criminal damage to property. The complaint alleged that on December 1, 2021, Swartz took and drove a 1999 Ford F-350 pickup truck with an attached gooseneck trailer without the owner's consent. The complaint further alleged that Swartz caused over \$2,500 in damage to the truck and trailer.

Swartz and the State ultimately entered into a global plea agreement, which provided that Swartz would enter guilty pleas to the felony bail jumping charge in Case No. 2021CF338 and to the three charges of operating a motor vehicle without the owner's consent in Case Nos. 2022CF278, 2022CF281, and 2022CF282. In exchange for Swartz's pleas, the State agreed to recommend that the remaining charges in those four cases be dismissed and read in for purposes of sentencing, along with all of the charges in four additional cases. The plea agreement further provided that the parties would jointly request a presentence investigation report (PSI), that the State's total sentence recommendation would be capped at four years' initial confinement followed by four years' extended supervision, and that the defense would be free to argue at sentencing.

Following a plea colloquy, supplemented by a signed plea questionnaire and waiver of rights form, the circuit court accepted Swartz's guilty pleas, finding that they were knowingly,

intelligently, and voluntarily entered. Defense counsel stipulated that the court could rely on the criminal complaints as the factual basis for Swartz's pleas, and the court found that an adequate factual basis for the pleas existed.

The circuit court ordered a PSI, and the defense also submitted a written sentencing memorandum. At Swartz's sentencing hearing, both sides made their sentencing arguments, and Swartz then exercised his right of allocution.

During its sentencing remarks, the circuit court addressed the seriousness of the offenses, the need to protect the public, and Swartz's mental health and drug treatment needs. The court then imposed concurrent sentences of three years' initial confinement followed by three years' extended supervision on all four counts of conviction. The court granted Swartz 233 days of sentence credit. The court specifically stated that Swartz would not be eligible for the Challenge Incarceration Program or the Substance Abuse Program, stating, "I believe public protection requires that you serve that entire term of initial incarceration. And they do have programming within the institution." With the parties' agreement, the court ordered Swartz to pay \$15,620 in restitution.

After sentencing, Swartz filed a pro se motion asking the circuit court to stay his sentences pending appeal. The court declined to address that pro se motion because Swartz was still represented by his trial attorney. After trial counsel's representation concluded, Swartz wrote to the court asking it to reconsider its decision making him ineligible for the Substance Abuse Program. The court denied that request by letter, explaining, "At the Sentencing Hearing

the Court denied your participation in that program and you've given the Court no new information which would change the Court's decision." These no-merit appeals follow.

The no-merit report addresses two potential issues: (1) whether Swartz's guilty pleas were knowing, intelligent, and voluntary; and (2) whether the circuit court erroneously exercised its sentencing discretion. Having independently reviewed the appellate records, we agree with counsel's description, analysis, and conclusion that these potential issues lack arguable merit, and we therefore do not address them further.

Although not separately addressed in the no-merit report, we also conclude that there are no issues of arguable merit regarding the circuit court's denial of Swartz's motion to stay his sentences pending appeal and his request for reconsideration of the court's decision regarding his eligibility for the Substance Abuse Program. The court properly declined to act on the pro se motion for a stay because Swartz filed it while represented by counsel. *See State v. Redmond*, 203 Wis. 2d 13, 19-20, 552 N.W.2d 115 (Ct. App. 1996) (explaining that a defendant may proceed with counsel or pro se, but is not entitled to hybrid representation). Additionally, the court explained the reasons for its decision to make Swartz ineligible for the Substance Abuse Program, and there would be no arguable merit to a claim that the court erroneously exercised its discretion in that regard. *See State v. Owens*, 2006 WI App 75, ¶9, 291 Wis. 2d 229, 713 N.W.2d 187 (explaining that eligibility for the Substance Abuse Program, formerly known as the Earned Release Program, is "part of the court's exercise of sentencing discretion").

Our independent review of the appellate records discloses no other potential issues for appeal.

Therefore,

IT IS ORDERED that the judgments are summarily affirmed. WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Katie Babe is relieved of further representation of Adam M. Swartz 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