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DISTRICT III

March 24, 2026

To:

Hon. Daniel J. Tolan
Circuit Court Judge
Electronic Notice

Sharon Jorgenson
Clerk of Circuit Court
Polk County Justice Center
Electronic Notice

John Blimling
Electronic Notice

Ellen J. Krahn
Electronic Notice

Keith Alan Baker
1606 Anderson Ave, Apt 122
Buffalo, MN 55313-2938

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

2024AP486-CRNM State of Wisconsin v. Keith Alan Baker (L. C. No. 2021CF236)

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).

Counsel for Keith Alan Baker filed a no-merit report concluding that no grounds exist to challenge Baker's convictions for possession of methamphetamine and felony bail jumping.¹ Baker was informed of his right to file a response to the 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 there is no arguable merit to any issue that could be raised on

¹ The no-merit report was filed by Attorney Leo Draws, who has been replaced by Attorney Ellen J. Krahn as Baker's appellate counsel.

appeal. Therefore, we summarily affirm the judgment of conviction. *See* WIS. STAT. RULE 809.21 (2023-24).²

The State charged Baker with possession of methamphetamine and felony bail jumping following a traffic stop. The complaint alleged that while on routine patrol, a law enforcement officer observed the passenger of a black vehicle attempting “to lean back in his seat and slouch down” when the officer passed the vehicle. The officer initiated a stop after learning that the vehicle’s registration described it as red—not black—in color and after observing additional furtive movements by the passenger. During the stop, the officer observed that the passenger, identified as Baker, spoke in “an extremely fast manner,” took “fast breaths,” had dilated pupils, and noticed “signs of extreme nervousness” based on his training and experience.

After learning Baker’s identity, the officer was informed by dispatch that Baker was on bond for a felony possession of methamphetamine charge with conditions that included “no controlled substances” and “testing upon reasonable suspicion.” Based on the officer’s observations, Baker was detained and transported to the jail in order to provide a urine sample. Following Baker’s transport to the jail, the officer searched the back seat of the squad car and found a small baggie containing a crystal-like substance. Field testing showed that the substance was positive for the presence of methamphetamine, and later laboratory testing confirmed that the substance was methamphetamine.

The case proceeded to a jury trial, and, at the outset of the trial, the parties agreed that Baker would enter a plea on the felony bail jumping charge pursuant to an agreement if the jury

² All references to the Wisconsin Statutes are to the 2023-24 version.

found him guilty on the possession charge. Conversely, the State agreed that the bail jumping charge would be dismissed if the jury acquitted Baker on the possession charge. The jury found Baker guilty of the possession charge, and, consistent with the parties' earlier agreement, Baker pled guilty to felony bail jumping. In exchange for his guilty plea, the State later agreed to recommend that charges from two other cases be dismissed and read in. Out of a maximum possible sentence on both charges of nine years and six months, the circuit court withheld sentence and placed Baker on probation for three years, as recommended by both Baker and the State. The court also ordered that one year of conditional jail time be "[b]anked for use by [p]robation if necessary."

Although the no-merit report does not address it, the record discloses no arguable basis for challenging the effectiveness of Baker's trial counsel. To establish ineffective assistance of counsel, Baker must show that his trial counsel's performance was not within the range of competence demanded of attorneys in criminal cases and that the ineffective performance resulted in prejudice. *See Strickland v. Washington*, 466 U.S. 668, 687 (1984). To prove prejudice in this case, Baker must demonstrate that "there is a reasonable probability that, but for counsel's errors, he would not have [pled] guilty and would have insisted on going to trial." *See Hill v. Lockhart*, 474 U.S. 52, 59 (1985).

Any claim that trial counsel was ineffective by failing to pursue a pretrial suppression motion based on the reasonableness of the stop would lack arguable merit. An officer has reasonable suspicion for a stop when "he or she possesses specific and articulable facts which would warrant a reasonable belief that criminal activity [is or] was afoot." *State v. VanBeek*, 2021 WI 51, ¶28, 397 Wis. 2d 311, 960 N.W.2d 32 (citation omitted; alteration in original). Although "a law enforcement officer may not stop a vehicle solely because the vehicle's color

differs from the color stated in the application for registration of that vehicle,” *see* WIS. STAT. § 349.02(2)(c), the vehicle in this case was stopped both because of the color anomaly and because of Baker’s furtive movements. Any challenge to the effectiveness of trial counsel on this basis would therefore lack arguable merit. We also see no other arguable basis in the record to support a claim that trial counsel was ineffective at Baker’s jury trial, plea hearing, or sentencing.

The no-merit report addresses whether there was sufficient credible evidence to support the jury’s verdict; whether there are any grounds to challenge the circuit court’s evidentiary rulings; whether Baker knowingly, intelligently, and voluntarily entered his guilty plea to the bail jumping charge; and whether the court properly exercised its sentencing discretion. Upon reviewing the record, we agree with counsel’s analysis and conclusion that there is no arguable merit to any of these issues.

We note that during the plea colloquy, the circuit court failed to inform Baker that it was not bound by the terms of the plea agreement, as required under *State v. Hampton*, 2004 WI 107, ¶12, 274 Wis. 2d 379, 683 N.W.2d 14. However, Baker 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 no-merit report otherwise sets forth an adequate discussion of the potential issues to support the no-merit conclusion, and we need not address them further.

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

Therefore,

IT IS ORDERED that the judgment is summarily affirmed. WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Ellen J. Krahn is relieved of her obligation to further represent Keith Alan Baker 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