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DISTRICT II

September 23, 2026

To:

Hon. Paul Bugenhagen, Jr.
Circuit Court Judge
Electronic Notice

Monica Paz
Clerk of Circuit Court
Waukesha County Courthouse
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Brian T. Coleman #722432
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You are hereby notified that the Court has entered the following opinion and order:

2026AP741-CRNM State of Wisconsin v. Brian T. Coleman (L.C. #2023CF256)

Before Gundrum, Grogan, and LoCoco, 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).

Brian T. Coleman appeals a judgment of conviction, entered partially on his guilty pleas and the remainder following a jury trial, for attempted removal of a major part of a vehicle without owner's consent as party to a crime, criminal damage to property as party to a crime, obstructing an officer, second-degree recklessly endangering safety, and vehicle operator flee/elude officer causing damage to property. He also appeals an order denying postconviction relief. His appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32

(2023-24)¹ and *Anders v. California*, 386 U.S. 738 (1967). Coleman was advised of his right to file a response and has not responded. After reviewing the Record and counsel's report, we conclude that there are no issues with arguable merit for appeal. Therefore, we summarily affirm the judgment and order. See WIS. STAT. RULE 809.21.

Broadly, according to the criminal complaint, on February 13, 2023, a patrol officer observed what appeared to be a theft of a catalytic converter in progress. He stopped and exited his marked squad car and alerted his presence to two individuals with a power saw crouched by a Toyota Prius. In response, the individuals jumped into the passenger side of a white Jeep that immediately sped away, almost striking the officer. The officer pursued the Jeep until the Jeep crashed into a retaining wall. Three males ran from the Jeep, and all three, including Coleman, were apprehended. The State charged each of the men with attempted removal of a major part of a vehicle without owner's consent as party to a crime, criminal damage to property as party to a crime, and obstructing an officer.

For various reasons, and as will be explained below, police believed Coleman was the driver of the white Jeep. As such, the State also charged Coleman with second-degree recklessly endangering safety (for almost striking the patrol officer) and vehicle operator flee/elude officer causing damage to property.

On the morning of trial, Coleman pled guilty to attempted removal of a major part of a vehicle without owner's consent as party to a crime, criminal damage to property as party to a crime, and obstructing an officer. He proceeded to a jury trial on the remaining two charges.

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

At trial, the patrol officer testified that at approximately 12:30 a.m., he came across two individuals wearing dark clothing using what sounded like a power saw on a Toyota Prius that was partially jacked up on a driveway. The officer, concerned that he had come upon a theft of a catalytic converter in progress, stopped his marked squad car in front of the driveway, exited his vehicle, and alerted the individuals to his presence. In response, the two individuals ran and jumped into the front and rear passenger doors of a white Jeep that was parked next to the Toyota. The Jeep immediately sped away, almost striking the officer, who had to step away to avoid being hit.

The officer pursued the Jeep at speeds of approximately 100 mph until the Jeep crashed into a retaining wall of a business. Three men ran from the Jeep and were eventually arrested. The Jeep's airbags were deployed in the crash. Blood was found on the steering wheel airbag, and Coleman was the only one of the three men that had facial injuries at the time of his arrest. Specifically, Coleman had blood on his face, and he was treated at the hospital for a broken nose.

After initially denying involvement, Coleman told a detective that he was seated in the back seat with the carjack and his face was injured when the carjack struck him in the face during the crash. Portions of Coleman's interviews with police were played for the jury. However, the detective testified that no carjack was found in the crashed Jeep. Rather, the carjack had been left behind, underneath the Toyota.

Police also found a Jeep key fob inside one of Coleman's zippered pockets. The detective tried to unlock and lock the Jeep's doors with the key fob, but the key fob did not work. The detective believed the key fob did not work because of the damage the Jeep sustained in the crash.

Finally, an officer testified that in the crashed Jeep, he found an iPhone in a black case on the floor of the driver's side seat. The iPhone was connected by a charging cable to the center console. Coleman was the only one of the three men who did not have a cell phone on his person at the time of his arrest, and he told police he was missing his cell phone, which he described as an iPhone in a black case.

Coleman did not testify. The jury convicted Coleman of second-degree recklessly endangering safety and vehicle operator flee/elude officer causing damage to property. The circuit court imposed a cumulative sentence of six years' initial confinement and six years' extended supervision.² The court made Coleman eligible for prison programming after he served five years of initial confinement.

Appointed counsel filed an unopposed postconviction motion to amend the judgment of conviction in order to accurately impose the circuit court's sentences and to award the sentence credit due to Coleman. The court amended the judgment of conviction accordingly.

Appointed counsel then sought and received our permission to file a supplemental postconviction motion. In the supplemental postconviction motion, Coleman sought sentence modification based on a change in the Department of Corrections' ("DOC") policy regarding eligibility for the substance abuse program. Specifically, Coleman advised that pursuant to a new DOC policy, an inmate needed to have at least four years of initial confinement remaining

² The circuit court sentenced Coleman to four years' initial confinement and four years' extended supervision on the second-degree recklessly endangering safety count. The court sentenced him to a consecutive sentence of two years' initial confinement and two years' extended supervision on the operator-flee/elude-officer-causing-property-damage count. As for the pled counts, the court sentenced him to nine months' jail on each of the remaining three misdemeanor counts to be served consecutively with each other but concurrent to the felony counts.

in order to be eligible for prison programming. Because the circuit court had ordered Coleman to serve five of his six years of initial confinement before he could be eligible to participate in any programing, Coleman asked the court to modify his sentence.

The State opposed the motion, arguing that Coleman failed to establish the change in policy constituted a “new factor” warranting resentencing. The circuit court denied the motion without a hearing and adopted the State’s reasoning. This no-merit appeal follows.

The no-merit report addresses potential issues of whether Coleman’s pleas were knowingly, voluntarily, and intelligently entered, whether the evidence was sufficient to convict Coleman of the remaining crimes, whether there were any potential meritorious issues arising from the preliminary hearing, any pre-trial motions, the State’s plea offer, trial (including jury selection, objections, juror questions, Coleman’s decision not to testify, jury instructions, and motions for directed verdict), whether the circuit court properly exercised its discretion at sentencing, and whether the court properly denied the supplemental postconviction motion. We agree with counsel’s analyses and conclusions as detailed in the no-merit report. We briefly comment on Coleman’s pleas, sufficiency of the evidence, sentencing, and the supplemental postconviction motion.

We first agree with counsel’s analysis and conclusion that any challenge to the validity of Coleman’s pleas would lack arguable merit. See *State v. Bangert*, 131 Wis. 2d 246, 260, 389 N.W.2d 12 (1986). Our review of the Record and of counsel’s analysis in the no-merit report satisfies us that the circuit court complied with its obligations for taking Coleman’s pleas. See WIS. STAT. § 971.08; *Bangert*, 131 Wis. 2d at 261-62; *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906.

The no-merit report addresses whether the evidence at Coleman’s jury trial was sufficient to support his convictions. When reviewing the sufficiency of the evidence, we may not substitute our judgment for that of the jury “unless the evidence, viewed most favorably to the state and the conviction, is so lacking in probative value and force that no trier of fact, acting reasonably, could have found guilt beyond a reasonable doubt.” *State v. Poellinger*, 153 Wis. 2d 493, 507, 451 N.W.2d 752 (1990). Our review of the trial transcript persuades us that the State produced ample evidence to convict Coleman of his crimes.

As for the second-degree-recklessly-endangering-safety conviction, the evidence introduced at trial, including the bloody steering wheel airbag and Coleman’s facial injuries, established Coleman was driving the Jeep and almost struck the patrol officer with the Jeep as he sped away from the crime. See WIS. STAT. § 941.30(2); WIS JI—CRIMINAL 1347 (2015). In regard to the vehicle-operator-flee/elude-officer-causing-damage-to-property conviction, the evidence introduced at trial established that Coleman was driving the Jeep and fled from a marked squad car whose emergency lights were activated and crashed into a business’s retaining wall. See WIS. STAT. § 346.04(3); WIS JI—CRIMINAL 2630 (2024). Based on all the evidence supporting the jury’s verdict, we agree with counsel that a challenge to the sufficiency of the evidence would lack arguable merit.

With regard to the circuit court’s sentencing discretion, our review of the Record confirms that the court appropriately considered the relevant sentencing objectives and factors. See *State v. Odom*, 2006 WI App 145, ¶7, 294 Wis. 2d 844, 720 N.W.2d 695; *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. The resulting sentence was within the maximum authorized by law. See *State v. Scaccio*, 2000 WI App 265, ¶18, 240 Wis. 2d 95, 622 N.W.2d 449. The sentence was not so excessive so as to shock the public’s sentiment. See

Ocanas v. State, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). Therefore, there would be no arguable merit to a challenge to the court’s sentencing discretion.

Finally, as for the supplemental postconviction motion, Coleman moved for sentence modification on the basis of a new factor—specifically a change in DOC policy regarding eligibility for prison programming. “Deciding a motion for sentence modification based on a new factor is a two-step inquiry.” **State v. Harbor**, 2011 WI 28, ¶36, 333 Wis. 2d 53, 797 N.W.2d 828. Coleman first must demonstrate by clear and convincing evidence the existence of a new factor. **Id.** A new factor is defined as a fact or a set of facts that is “*highly relevant to the imposition of sentence*, but not known to the [circuit court] at the time of original sentencing, either because it was not then in existence or because, even though it was then in existence, it was unknowingly overlooked by all of the parties.” **Id.**, ¶40 (quoting **Rosado v. State**, 70 Wis. 2d 280, 288, 234 N.W.2d 69 (1975)) (emphasis added). Whether a fact or set of facts is a “new factor” is a question of law. **Id.**, ¶36. If a new factor exists, the circuit court then exercises its discretion to determine whether that new factor justifies sentence modification. **Id.**, ¶37.

Here, at sentencing, the circuit court specifically advised Coleman that it would make him eligible for prison programming after he served five years of initial confinement but “[n]ot getting into those programs is not a reason to modify the sentence later[.]” Given the sentencing court’s statement, we agree with appointed counsel that Coleman cannot establish that the possibility of program eligibility was a factor “*highly relevant to the imposition of sentence*,” and thus constituted a new factor. See **Harbor**, 2011 WI 28, ¶40 (quoting **Rosado**, 70 Wis. 2d at 288).

Our independent review of the Record discloses no other potential issues for appeal. This court accepts the no-merit report, affirms the judgment of conviction and order denying postconviction relief, and discharges appellate counsel of the obligation to represent Coleman further in this appeal.

Upon the foregoing reasons,

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 Attorney Jill Marie Skwor is relieved from further representing Brian T. Coleman in this appeal. 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