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DISTRICT II

October 21, 2026

To:

Hon. Rebecca L. Persick
Circuit Court Judge
Electronic Notice

John Blimling
Electronic Notice

Chris Koenig
Clerk of Circuit Court
Sheboygan County Courthouse
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Gregory Bates
Electronic Notice

Dawn Marie Astudillo, #734026
Robert Ellsworth Correctional Center
21425-A Spring St.
Union Grove, WI 53182-9408

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

2025AP2529-CRNM State of Wisconsin v. Dawn Marie Astudillo (L.C. #2024CF239)

Before Lazar, P.J., Gundrum, and Grogan, 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 this appeal from a conviction for causing mental harm to a child, appointed counsel for Dawn Marie Astudillo has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2023-24)¹ and *Anders v. California*, 386 U.S. 738 (1967). Counsel provided Astudillo with a copy of the report, and both counsel and this court advised her of her right to file a response. Astudillo has not responded. Based on our independent review of the Record, we agree with appointed

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

counsel's conclusion that there is no arguable merit to any issue that could be raised on appeal. Accordingly, we summarily affirm the judgment and order.

The State charged Astudillo with several offenses stemming from the mistreatment of her nine-year old child—who was reportedly malnourished, failing to thrive, and not receiving adequate medical or dental care—and of the family dog. After reaching an agreement with the State, Astudillo entered a plea of no contest to an amended count of causing mental harm to a child. *See* WIS. STAT. §§ 948.04(1), 939.50(3)(f). The remaining five counts were dismissed and read in, including one count of neglecting her child and several misdemeanor counts related to the dog.

The circuit court imposed a sentence of six years of initial confinement and five years of extended supervision. Through counsel, Astudillo then filed a postconviction motion seeking a resentencing or sentence modification based on a “new factor” that was not known at the time of sentencing. The court denied the motion, finding that it was aware of some of the purportedly new information at the time of sentencing. The court found the remainder of the information Astudillo presented in her postconviction motion was either contrary to the evidence before the court or otherwise was not credible and would have had no impact on the court's sentencing decision. This no-merit appeal follows.

The no-merit report discusses four issues: (1) whether Astudillo's no-contest plea was voluntary, knowing, and intelligent; (2) whether there were any pretrial errors that could be challenged on appeal; (3) whether the circuit court erroneously exercised its sentencing discretion; and (4) whether the court erred in denying Astudillo's postconviction motion. We briefly discuss each issue in turn below.

The no-merit report satisfies this court that the plea colloquy sufficiently complied with the requirements of *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906, and Wis. STAT. § 971.08 concerning the nature of the charge, the rights Astudillo was waiving, and other related matters. To expound briefly, in order to withdraw a plea after sentencing, a defendant either must show that the plea colloquy was defective in a manner that resulted in the defendant actually entering an unknowing plea, or demonstrate some other manifest injustice such as coercion, the lack of a factual basis to support the charge, ineffective assistance of counsel, or failure by the prosecutor to fulfill the plea agreement. *State v. Bangert*, 131 Wis. 2d 246, 272-76, 389 N.W.2d 12 (1986); *State v. Krieger*, 163 Wis. 2d 241, 249-51 & n.6, 471 N.W.2d 599 (Ct. App. 1991). There is no indication of any such defect here. The Record shows no other ground to withdraw the plea, nor any ineffective assistance of trial counsel related to the plea. There is no arguable merit to this issue.

The report next discusses whether there would be arguable merit to an appeal based on any pretrial rulings or issues. The report identifies no jurisdictional defects, and further correctly observes that a valid guilty or no-contest plea results in the waiver of all nonjurisdictional defects and defenses. See *State v. DeWitt*, 2008 WI App 134, ¶10, 313 Wis. 2d 794, 758 N.W.2d 201. We conclude there is no arguable merit to an appeal based on any pretrial issues.

The no-merit report also addresses whether the circuit court erroneously exercised its sentencing discretion. The standards for the circuit court and this court on sentencing issues are well-established and need not be repeated here. See *State v. Gallion*, 2004 WI 42, ¶¶17-51, 270 Wis. 2d 535, 678 N.W.2d 197. In this case, the court considered appropriate factors, did not consider improper factors, and reached a reasonable result. The sentence imposed was less than the maximum penalty available and cannot be said to shock public sentiment. See *Ocanas v.*

State, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). There is no arguable merit to an appeal from the sentence imposed.

As to the fourth issue raised in the no-merit report, appointed counsel similarly concludes that there are no issues of potential merit related to the circuit court’s denial of Astudillo’s postconviction motion. To repeat, Astudillo sought a sentence adjustment. The defense argued that overlooked evidence, such as bank statements showing the child was taken to restaurants and otherwise well-cared for and the defendant’s own history of trauma, constituted a “new factor” justifying a lighter sentence. See **State v. Harbor**, 2011 WI 28, ¶¶36-37, 333 Wis. 2d 53, 797 N.W.2d 828. The court reiterated concerns it had raised at the sentencing hearing, noting that Astudillo’s explanations remained “absurd” and that her “abusive, dishonest, and manipulative” character continued to make her a danger to the community. We agree with the conclusion in the report that any challenge to the court’s denial of the motion is without potential merit.

Finally, our independent review of the Record does not disclose any issues of arguable merit for appeal. See **State v. Allen**, 2010 WI 89, ¶¶81-82, 328 Wis. 2d 1, 786 N.W.2d 124. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of **Anders** and WIS. STAT. RULE 809.32.

Upon the foregoing reasons,

IT IS ORDERED that the judgment and the order of the circuit court are summarily affirmed. See WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Gregory Bates is relieved from further representing Dawn Marie Astudillo 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