



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215

P.O. BOX 1688

MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880

TTY: (800) 947-3529

Facsimile (608) 267-0640

Web Site: www.wicourts.gov

DISTRICT IV

October 22, 2026

To:

Hon. Ellen K. Berz
Circuit Court Judge
Electronic Notice

Jeff Okazaki
Clerk of Circuit Court
Dane County Courthouse
Electronic Notice

Katie Babe
Electronic Notice

Kasey Deiss
Electronic Notice

David J. Beloungy
c/o Attic Correctional Services
5706 Odana Road, Suite # 1
Madison, WI 53719

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

2024AP2247-CRNM	State of Wisconsin v. David J. Beloungy (L.C. # 2023CF175)
2024AP2250-CRNM	State of Wisconsin v. David J. Beloungy (L.C. # 2023CF2562)

Before Graham, P.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).

Attorney Katie Babe, appointed counsel for David Beloungy, has filed a no-merit report seeking to withdraw as appellate counsel. See WIS. STAT. RULE 809.32 and *Anders v. California*, 386 U.S. 738, 744 (1967). The no-merit report addresses whether there would be arguable merit to a challenge to Beloungy's pleas or sentence. Beloungy was sent a copy of the report, but has not filed a response. Upon independently reviewing the entire record, as well as

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.

the no-merit report, I agree with counsel's assessment that there are no arguably meritorious appellate issues. Accordingly, I affirm.

Beloungy was charged with three counts of misdemeanor theft and three counts of felony bail jumping in these two cases. Pursuant to a plea agreement, Beloungy pled guilty to the three misdemeanor theft charges, and the three bail jumping charges were dismissed outright. The parties jointly recommended two years of probation, and the circuit court followed that joint recommendation. In addition, the court followed the defense recommendation to withhold sentence, rather than the State's recommendation to impose and stay a 24-month jail term. The court ordered restitution in the amount stipulated by the parties along with other conditions of probation. Additionally, the court awarded Beloungy 26 days of sentence credit on his first case, and 33 days of sentence credit on his second case, based on the dates he was in custody.

The no-merit report addresses whether there would be arguable merit to a challenge to Beloungy's pleas. A post-sentencing motion for plea withdrawal must establish that plea withdrawal is necessary to correct a manifest injustice, such as a plea that was not knowing, intelligent, and voluntary. *State v. Brown*, 2006 WI 100, ¶18, 293 Wis. 2d 594, 716 N.W.2d 906. Here, the circuit court conducted a plea colloquy that, together with the plea questionnaires that Beloungy signed, satisfied the court's mandatory duties to personally address Beloungy and determine information such as Beloungy's understanding of the nature of the charges and the range of punishments he faced, and the constitutional rights he waived by entering a plea.² See

² The circuit court failed to give the required immigration warnings under WIS. STAT. § 971.08(1)(c). However, the no-merit report states that counsel "is unaware of any possible issue related to citizenship," and Beloungy has not filed a response disputing that point. See *State v. Negrete*, 2012 WI 92, ¶26, 343 Wis. 2d 1, 819 N.W.2d 749 (to seek plea withdrawal based on lack of immigration warnings, (continued)

State v. Hoppe, 2009 WI 41, ¶¶18, 30, 317 Wis. 2d 161, 765 N.W.2d 794. I agree with counsel's assessment that there would be no arguable merit to a challenge to Beloungy's pleas.

The no-merit report also addresses whether there would be arguable merit to a challenge to sentencing. The circuit court imposed the probation term jointly recommended by the parties, and followed Beloungy's request that the court withhold sentence rather than impose and stay a jail term. The court ordered conditions of probation, including a ban from the University of Wisconsin campus, and 120 days of conditional jail time that the court stayed pending Beloungy's compliance with conditions related to treatment, education, and employment.

Because Beloungy affirmatively approved the probation term, he may not challenge it on appeal. See *State v. Scherreiks*, 153 Wis. 2d 510, 518, 451 N.W.2d 759 (Ct. App. 1989). Additionally, I discern no arguable merit to any challenge to the circuit court's exercise of discretion in setting the terms of probation. See *State v. Davis*, 2017 WI App 55, ¶12, 377 Wis. 2d 678, 901 N.W.2d 488 (sentencing court has wide discretion to impose any conditions of probation that appear reasonable and appropriate, measured by how well they serve the goals of rehabilitation and protection of the community); WIS. STAT. § 973.09(4)(a) (court may require up to one year in jail as a condition of probation).

Upon my independent review of the record, I have found no other arguable basis for reversing the judgments of conviction. I conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

a defendant must show that the plea is likely to result in deportation, exclusion from admission, or denial of naturalization).

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

IT IS FURTHER ORDERED that Attorney Katie Babe is relieved of any further representation of David Beloungy 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