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DISTRICT I

November 10, 2026

To:

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Circuit Court Judge
Electronic Notice

Anna Hodges
Clerk of Circuit Court
Milwaukee County Safety Building
Electronic Notice

John Blimling
Electronic Notice

Thomas J. Erickson
Electronic Notice

Charles Carmichael 389536
Sturtevant Transitional Facility
9351 Rayne Road
P.O. Box 900
Sturtevant, WI 53177

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

2025AP704-CRNM State of Wisconsin v. Charles Carmichael (L.C. # 2021CF2435)

Before Colón, P.J., Geenen, and Petrashek, 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).

Charles Carmichael appeals from a judgment convicting him of two drug-related offenses. His appellate counsel, Thomas J. Erickson, has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2023-24) and ***Anders v. California***, 386 U.S. 738 (1967).[1] Carmichael received a copy of the report, was advised of his right to file a response, and has elected not to do so. Upon consideration of the report and an independent review of the record, we conclude that

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

the judgment may be summarily affirmed because there is no arguable merit to any issue that could be raised on appeal. *See* WIS. STAT. RULE 809.21.

Carmichael was charged with four counts of possessing a firearm as a felon, one count of possessing cocaine (15-40 grams) with intent to deliver, and one count of possessing heroin (10-50 grams) with intent to deliver. Both of the drug-related offenses were charged as a party to a crime, with use of a dangerous weapon, as second or subsequent offenses.

The complaint, which served as the factual basis for Carmichael's subsequent guilty pleas, alleged that police officers executed a search warrant at a Milwaukee residence. The complaint identified Carmichael "as the target of the search warrant," and officers saw him trying to climb out of a second-story window before he was ordered back inside and taken into custody. Inside the residence, the officers found four firearms and substances that tested positive for heroin, fentanyl, and cocaine. The officers additionally found a variety of drug related paraphernalia, two drivers licenses belonging to Carmichael, and an electric bill addressed to Carmichael at that location. During a ***Mirandized*** interview, Carmichael said he had lived at the residence for approximately nine months.[2] The complaint additionally alleged that Carmichael had a prior felony conviction for possessing cocaine with intent to deliver, which remained of record and unreversed.

Pursuant to plea negotiations, Carmichael pled guilty to possessing cocaine (15-40 grams) with intent to deliver and to an amended charge of possessing narcotics with intent to deliver, with both charges as a party to a crime and with the use of a dangerous weapon. In

[2] *See* ***Miranda v. Arizona***, 384 U.S. 436 (1966).

exchange for Carmichael's pleas, four counts of possessing a firearm as a felon were dismissed and read in.[3] Additionally, the State agreed to recommend a prison sentence of an unspecified length. The court accepted Carmichael's pleas and imposed concurrent sentences of five years of initial confinement and five years of extended supervision on each count.

The no-merit report addresses whether Carmichael's pleas were entered knowingly, voluntarily, and intelligently. We agree with counsel's assessment that a challenge to Carmichael's pleas would be wholly frivolous. A postsentencing 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 questionnaire that Carmichael signed, satisfied the court's mandatory duties to personally address Carmichael and to determine information such as Carmichael's understanding of the nature of the charges and the range of punishments he faced, the constitutional rights he

[3] The plea questionnaire indicated that the second-or-subsequent-offense enhancers would be dismissed and read in. During the plea hearing, however, the State said it was striking the enhancers for second or subsequent offense as to both counts. The State reiterated during the subsequent sentencing hearing that it had agreed to strike the second-or-subsequent-offense enhancers entirely.

waived by entering pleas, and the direct consequences of his pleas.[4] *See* ***State v. Hoppe***, 2009 WI 41, ¶¶18, 30, 317 Wis. 2d 161, 765 N.W.2d 794.

The no-merit report also addresses Carmichael's sentences. The sentences are within the legal maximums. As to discretionary issues, the standards for the circuit court and this court 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. There is no arguable merit to this issue.

During the sentencing hearing, trial counsel confirmed for the circuit court that he had had the opportunity to go over the presentence investigation report (PSI) with Carmichael, and they did not have any additions or corrections. Although the no-merit report does not address it, this court notes that the PSI misstated the maximum sentences Carmichael faced for the charges to which he pled by overstating the initial confinement time on each charge by one year. On the charge of possessing cocaine with intent deliver with use a dangerous weapon, the PSI indicated that Carmichael faced twenty-one years of initial confinement time instead of twenty years and a total maximum sentence of thirty-one years instead of thirty. *See* WIS. STAT. §§ 961.41(1m)(cm)3., 939.63(1)(b), 973.02(2)(b)4. & (d)3. A similar mistake was made with

[4] Our independent review of the record reveals that during the plea colloquy, the circuit court did not address the significance of the four dismissed and read-in counts of possession of a firearm by a felon. In ***State v. Straszkowski***, 2008 WI 65, ¶5, 310 Wis. 2d 259, 750 N.W.2d 835, the court stated that the circuit court should advise the defendant as part of the plea colloquy "that it may consider read-in charges when imposing sentence," "may require a defendant to pay restitution on any read-in charges," and the State cannot prosecute a read-in charge in the future. Nevertheless, we conclude that this issue lacks arguable merit for appeal because the circuit court did not discuss the read-in charges at sentencing other than to acknowledge, in passing, the existence of the guns in the context of all of the other evidence that was found at Carmichael's home.

regard to the narcotics charge. The PSI stated that Carmichael faced sixteen years of initial confinement time instead of fifteen and a total maximum sentence of twenty-one years instead of twenty. *See* §§ 961.41(1m)(a), 939.63(1)(b), 973.01(2)(b)5. & (d)4.

Defendants have a due process right to be sentenced on the basis of accurate information. ***State v. Tiepelman***, 2006 WI 66, ¶9, 291 Wis. 2d 179, 717 N.W.2d 1. In order to establish a due process violation, the defendant has the burden of proving, by clear and convincing evidence, both that the information was inaccurate and that the court actually relied on the inaccurate information in sentencing. ***Id.***, ¶26. Despite the slight misstatements in the PSI as to the maximum confinement times Carmichael faced, there is no indication in the record that the court relied on those misstatements. A claim that the court relied on inaccurate information at sentencing would lack arguable merit.

Our independent review of the record discloses no other potential issues for appeal.[5]

Therefore,

IT IS ORDERED that the judgment of conviction is summarily affirmed. *See* WIS. STAT. RULE 809.21.

[5] A scheduling hearing transcript is not in the record. At our direction, appellate counsel requested the missing transcript, but it was unable to be produced because the responsible court reporter is unavailable and because the notes are missing. Appellate counsel does not believe the missing transcript contains an issue of arguable merit. We agree. We also note that Carmichael's subsequent pleas forfeited the right to raise nonjurisdictional defects and defenses, including claimed violations of constitutional rights. *See* ***State v. Kelty***, 2006 WI 101, ¶18 & n.11, 294 Wis. 2d 62, 716 N.W.2d 886; *see also* ***State v. Lasky***, 2002 WI App 126, ¶11, 254 Wis. 2d 789, 646 N.W.2d 53.

IT IS FURTHER ORDERED that Attorney Thomas J. Erickson is relieved of further representation of Carmichael 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