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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](http://www.wicourts.gov)

**DISTRICT II**

April 13, 2022

To:

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Circuit Court Judge  
Electronic Notice

Samuel A. Christensen  
Clerk of Circuit Court  
Racine County Courthouse  
Electronic Notice

Winn S. Collins  
Electronic Notice

Mark S. Rosen  
Electronic Notice

John L. Roberts, #68647  
Jackson Correctional Inst.  
P.O. Box 233  
Black River Falls, WI 54615-0233

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

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2021AP1134-CRNM	State of Wisconsin v. John L. Roberts (L.C. #2019CF193)
2021AP1135-CRNM	State of Wisconsin v. John L. Roberts (L.C. #2019CF473)

Before Gundrum, P.J., Neubauer and Kornblum, 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 these consolidated appeals, John L. Roberts appeals judgments of conviction entered upon his no contest pleas to one count of burglary of a building and one count of criminal damage to property as a repeater. Roberts's appointed appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2019-20)<sup>1</sup> and *Anders v. California*, 386 U.S. 738 (1967). Roberts filed a response, and counsel filed a supplemental no-merit report, to which

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

Roberts also responded. Upon consideration of the no-merit report, the supplemental no-merit report, and Roberts's responses, and following an independent review of the record as mandated by *Anders* and RULE 809.32, we conclude there is no arguable merit to any issue that could be raised on appeal and summarily affirm the judgments. *See* WIS. STAT. RULE 809.21(1).

In Racine County Circuit Court case No. 2019CF193, Roberts was charged with burglary of a building, contrary to WIS. STAT. § 943.10(1m)(a). That charge was based on allegations that Roberts had broken a window at the BJW Ultra Lounge and stolen alcohol and money. In Racine County Circuit Court case No. 2019CF473, Roberts was charged with one count of attempted burglary of a dwelling, contrary to § 943.10(1m)(a) and WIS. STAT. § 939.32, and one count of criminal damage to property, contrary to WIS. STAT. § 943.01(1), both as a repeater. Those charges were based on allegations that Roberts had broken the window of a residence with a rock in an apparent attempt to make entry.

The cases were resolved by a global plea agreement under which Roberts pled no contest to the burglary as charged in case No. 2019CF193 and to the criminal-damage charge in case No. 2019CF473. The attempted burglary charge in case No. 2019CF473 was dismissed and read in, and the State agreed to recommend a prison sentence of indeterminate length. Following a plea colloquy, the circuit court accepted Roberts's no contest pleas, adjudged him guilty, ordered a presentence investigation report, and set the matter for sentencing. The court sentenced Roberts to four years' initial incarceration and four years' extended supervision for the burglary, with a concurrent sentence of one year of initial confinement and one year of extended supervision on the criminal-damage-to-property conviction. Those sentences were ordered to run consecutively to other revocation sentences Roberts was then serving.

The no-merit report concludes that no potentially meritorious issue could be raised regarding the validity of Roberts’s pleas or the circuit court’s exercise of its sentencing discretion. Our independent review of the record satisfies us that the no-merit report properly concludes that any argument on those grounds would lack arguable merit. Specifically, the circuit court conducted a thorough colloquy with Roberts prior to accepting his no-contest pleas, *see State v. Bangert*, 131 Wis. 2d 246, 261-62, 389 N.W.2d 12 (1986), and considered appropriate sentencing considerations when imposing a permissible sentence, *see State v. Gallion*, 2004 WI 42, ¶¶40-44, 270 Wis. 2d 535, 678 N.W.2d 197.

In response, Roberts argues the circuit court erroneously exercised its discretion by “not giving weight to rehabilitation of defendant and his age as a mitigating factor.” His argument appears directed at the fact that the court declared him ineligible for the substance abuse and challenge incarceration programs. As the supplemental no-merit report notes, at sentencing the court observed that Roberts was a “61-year-old man” who had not learned from his past criminal conduct and “continue[d] to drink, ... continue[d] to do drugs, and ... continue[d] to commit very serious felony crimes.” When denying program eligibility, the court determined that Roberts had been involved in drug and alcohol treatment efforts for decades with no significant progress, and it found it unlikely that Roberts would take the programming seriously. This constituted an adequate explanation of its decision. *See State v. Owens*, 2006 WI App 75, ¶10, 291 Wis. 2d 229, 713 N.W.2d 187.

Our independent review of the record reveals no other potentially meritorious issue for appeal.

Therefore,

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

IT IS FURTHER ORDERED that Attorney Mark S. Rosen is relieved from further representing John L. Roberts in these appeals. *See* WIS. STAT. RULE 809.32(3).

IT IS FURTHER ORDERED that this summary disposition order will not be published.

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*Sheila T. Reiff*  
*Clerk of Court of Appeals*