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**DISTRICT I**

April 25, 2023

*To:*

Hon. Joseph R. Wall  
Circuit Court Judge  
Electronic Notice

Hon. Glenn H. Yamahiro  
Circuit Court Judge  
Electronic Notice

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

Winn S. Collins  
Electronic Notice

Christopher D. Sobie  
Electronic Notice

Randell Wright 682352  
Kettle Moraine Correctional Inst.  
P.O. Box 282  
Plymouth, WI 53073-0282

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

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2022AP755-CRNM      State of Wisconsin v. Randell Wright (L.C. # 2018CF3978)

Before Brash, C.J., Donald, P.J., and Dugan, J.

**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).**

Randell Wright appeals the judgment entered after he pled guilty to first-degree reckless homicide. He also appeals the order denying his postconviction motion.<sup>1</sup> His appellate counsel, Christopher D. Sobie, filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2021-22) and

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<sup>1</sup> The Honorable Joseph R. Wall presided over Wright's plea and sentencing hearings and entered the judgment of conviction. The Honorable Glenn H. Yamahiro issued the order denying Wright's postconviction motion.

*Anders v. California*, 386 U.S. 738 (1967).<sup>2</sup> Wright filed a response, counsel filed a supplemental no-merit report, and Wright filed a supplemental response. Upon consideration of the submissions and an independent review of the record, we conclude that the judgment and the order 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.

According to the complaint, Wright and his son J.W. got into a verbal argument about J.W. not keeping his room clean. Wright told police that during the argument, Wright retrieved a gun, hoping this would make J.W. “back down.” Instead, J.W. approached Wright and grabbed him by the shirt and hair. In response, Wright pushed J.W. and lost his balance. As Wright was slipping backward, he told police the gun went off accidentally and a bullet struck J.W. J.W. died from a gunshot wound to his neck.

The complaint further stated that the evidence at the scene and relating to J.W.’s wound were “inconsistent with [Wright]’s version of events as to the manner in which he shot his son” and “the scene investigation and the autopsy are more consistent with [Wright] shooting the victim after the victim ha[d] turned his body on [Wright].”

Pursuant to a plea agreement, Wright pled guilty to first-degree reckless homicide. In exchange, the State agreed to dismiss the use of a dangerous weapon enhancer and recommend prison, without specifying the duration. The circuit court accepted Wright’s plea and sentenced him to fifteen years of initial confinement and five years of extended supervision.

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<sup>2</sup> All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

After sentencing, Wright filed a postconviction motion requesting sentence modification. The motion alleged that a sentence modification was appropriate because the court incorrectly believed at sentencing that Wright faced five additional years of initial confinement due to the dangerous weapon enhancer, even though that enhancer had been dismissed as part of the plea agreement. The motion also asked for a sentence modification based on multiple positive statements about Wright that were not presented at sentencing.

Following briefing, the postconviction court denied Wright's motion. This no-merit appeal follows.

The no-merit report addresses the validity of Wright's plea. *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 a guilty plea, pursuant to WIS. STAT. § 971.08, *Bangert*, 131 Wis. 2d at 261-62, and *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906. There would be no arguable merit to a claim that Wright's plea was not knowingly, intelligently, and voluntarily entered.

The no-merit report additionally addresses whether there would be arguable merit to a claim that the circuit court erroneously exercised its sentencing discretion. *See State v. Gallion*, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197. At sentencing, a court must consider the principal objectives of sentencing, including the protection of the community, the punishment and rehabilitation of the defendant, and deterrence to others, *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76, and determine which objective or objectives are of greatest importance, *see Gallion*, 270 Wis. 2d 535, ¶41. In seeking to fulfill the sentencing objectives, the court should consider primary factors including the gravity of the offense, the

character of the offender, and the protection of the public, and may consider other additional factors. *See State v. Odom*, 2006 WI App 145, ¶7, 294 Wis. 2d 844, 720 N.W.2d 695. The weight to be given to each factor is committed to the circuit court's discretion. *See Ziegler*, 289 Wis. 2d 594, ¶23. We will sustain a circuit court's exercise of sentencing discretion if the sentence imposed was one that a reasonable judge might impose, even if this court or another judge might have imposed a different sentence. *See Odom*, 294 Wis. 2d 844, ¶8. Here, the circuit court appropriately considered relevant sentencing objectives and factors, and imposed a reasonable sentence. There would be no arguable merit to a challenge to the court's sentencing discretion.

Lastly, the no-merit report addresses whether the circuit court properly exercised its discretion in denying Wright's sentence modification motion. This court is satisfied that the no-merit report correctly analyzes this issue as without merit, and we will not discuss it further.

Among the challenges raised in his responses, Wright contends his initial appearance was not held within forty-eight hours of his arrest,<sup>3</sup> his *Miranda* rights were violated,<sup>4</sup> and the police unlawfully obtained evidence. However, Wright's knowing and voluntary plea forfeited the right to raise other nonjurisdictional defects and defenses, including claimed violations of constitutional rights prior to the entry of the plea. *See State v. Kelty*, 2006 WI 101, ¶18 & n.11, 294 Wis. 2d 62, 716 N.W.2d 886. The addendum to the plea questionnaire and waiver of rights

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<sup>3</sup> In his supplemental no-merit report, counsel presents evidence reflecting that a judicial determination of probable cause occurred within forty-eight hours. *See* WIS. STAT. RULE 809.32(1)(f) (providing that counsel may rebut allegations made in the appellant's response with facts outside the record).

<sup>4</sup> *See Miranda v. Arizona*, 384 U.S. 436 (1966).

form, which Wright signed, made clear that by pleading guilty Wright was giving up his right to challenge the constitutionality of any police action such as arresting him, searching him or his property, seizing evidence, and taking a statement from him.

Our review of the record discloses no other potential issues for appeal. This court has reviewed and considered the various issues raised by Wright. To the extent we did not specifically address all of them, this court has concluded that they lack sufficient merit or importance to warrant individual attention. Accordingly, this court accepts the no-merit report, affirms the judgment and the order, and discharges appellate counsel of the obligation to represent Wright further in this appeal.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Christopher D. Sobic is relieved from further representing Randell Wright in this appeal. *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*