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**DISTRICT III**

October 29, 2024

To:

Hon. Suzanne C. O'Neill  
Circuit Court Judge  
Electronic Notice

Kelly Schremp  
Clerk of Circuit Court  
Marathon County Courthouse  
Electronic Notice

Katie Babe  
Electronic Notice

Jennifer L. Vandermeuse  
Electronic Notice

Michael Alexander Norfleet 496707  
Green Bay Correctional Inst.  
P.O. Box 19033  
Green Bay, WI 54307-9033

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

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2023AP637-CRNM

State of Wisconsin v. Michael Alexander Norfleet  
(L. C. No. 2020CF1396)

Before Stark, P.J., Hruz and Gill, 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).**

Counsel for Michael Norfleet has filed a no-merit report, concluding that no grounds exist to challenge Norfleet's convictions for burglary while armed with a dangerous weapon, second-degree recklessly endangering safety, and felony bail jumping. Norfleet was informed of his right to file a response to the no-merit report, and he has not responded. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we

conclude there is no arguable merit to any issue that could be raised on appeal. Therefore, we summarily affirm the judgment of conviction. *See* WIS. STAT. RULE 809.21 (2021-22).<sup>1</sup>

The State charged Norfleet with the following ten offenses: burglary while armed with a dangerous weapon; second-degree recklessly endangering safety; kidnapping; armed robbery with the use of force; felony bail jumping; misdemeanor theft; two counts of the unauthorized use of an entity's identifying information or documents; and two counts of misdemeanor battery. The charges arose from allegations that Norfleet entered a home without permission; threatened the resident, Tony,<sup>2</sup> with a knife; struck him in the face several times; forced Tony to drive to a bank and withdraw \$3,000 from his account; stole the withdrawn money, along with Tony's wallet and cellphone; and used Tony's debit card to make purchases at both a clothing store and at Walmart. The complaint also alleged that Norfleet had violated the conditions of his bond imposed in two other cases.

Norfleet filed a pretrial motion to suppress statements he made to law enforcement, claiming the statements were made in violation of his *Miranda*<sup>3</sup> rights. Norfleet argued: (1) he was in custody when he was questioned at Walmart because he was approached by multiple officers and he did not feel free to leave; (2) he did not knowingly, voluntarily, and intelligently waive his *Miranda* rights after he was transported to the police station because he was in drug

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

<sup>2</sup> Pursuant to the policy underlying WIS. STAT. RULE 809.86(4), we use a pseudonym instead of the victim's name.

<sup>3</sup> *Miranda v. Arizona*, 384 U.S. 436 (1966).

withdrawal and was expressing suicidal ideations; and (3) officers continued to question him after he invoked his right to an attorney.

After a hearing, the circuit court denied Norfleet's motion, concluding that while Norfleet was in custody at Walmart, he was not interrogated by words or by actions. The court also concluded there was no evidence offered to establish that Norfleet did not understand his rights or that he did not want to continue talking to law enforcement. Finally, the court concluded that although Norfleet mentioned the word "lawyer" during his interrogation, he did not unambiguously state he wanted an attorney when law enforcement asked him to clarify whether he wanted to end the interrogation and speak to an attorney, and, ultimately, Norfleet stated that he wanted to keep talking.

After his suppression motion was denied, Norfleet opted to enter into a global plea agreement. In exchange for his no-contest pleas to burglary while armed with a dangerous weapon, second-degree recklessly endangering safety, and felony bail jumping, the State agreed to recommend that the circuit court dismiss and read in the remaining counts from this case and charges from two other cases.<sup>4</sup> The State also agreed to join in defense counsel's recommendation for concurrent sentences resulting in an aggregate fifteen-year term, consisting of ten years of initial confinement followed by five years of extended supervision. Out of a maximum total potential sentence of thirty-one years, the court imposed concurrent sentences consistent with the joint recommendation.

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<sup>4</sup> We note that although the no-merit report suggests that Norfleet appeared by videoconference at the plea/sentencing hearing, the record reflects that Norfleet appeared "in person, in custody" with his two attorneys, one of whom appeared via Zoom.

The no-merit report addresses whether the circuit court properly denied Norfleet's pretrial suppression motion; whether Norfleet knowingly, intelligently, and voluntarily entered his no-contest pleas; and whether there is any arguable merit to challenge the sentences imposed. Upon reviewing the record, we agree with counsel's description, analysis, and conclusion that none of these issues have arguable merit.

Although the no-merit report does not discuss it, we note that during the plea colloquy the circuit court corrected misinformation regarding one of the elements for burglary while armed with a dangerous weapon that was in a document attached to the plea questionnaire. Specifically, the document defined "dangerous weapon" as a firearm. Because Norfleet was alleged to have used a knife, the court confirmed Norfleet's understanding that a dangerous weapon may be any device designed as a weapon and capable of producing death or great bodily harm.

With respect to the sentences imposed, we also note that where a defendant affirmatively joins or approves a sentence recommendation, the defendant cannot attack the sentence on appeal. *State v. Scherreiks*, 153 Wis. 2d 510, 518, 451 N.W.2d 759 (Ct. App. 1989). The no-merit report otherwise sets forth an adequate discussion of the potential issues to support the no-merit conclusion, and we need not address them further. Additionally, with some exceptions not relevant here, Norfleet's valid no-contest pleas waived all nonjurisdictional defects and defenses. *See State v. Kelty*, 2006 WI 101, ¶18 & n.11, 34, 294 Wis. 2d 62, 716 N.W.2d 886.

Our independent review of the record discloses no other potential issue for appeal.

Therefore,

IT IS ORDERED that the judgment is summarily affirmed. WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Katie Babe is relieved of her obligation to further represent Michael Norfleet in this matter. *See* WIS. STAT. RULE 809.32(3).

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

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*Samuel A. Christensen*  
*Clerk of Court of Appeals*