



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 II

February 19, 2025

To:

Hon. James G. Pouros
Circuit Court Judge
Electronic Notice

Sherry Coykendall
Clerk of Circuit Court
Washington County Courthouse
Electronic Notice

Pamela Moorshead
Electronic Notice

Jennifer L. Vandermeuse
Electronic Notice

Richard Tommy Williams #507016
Racine Correctional Inst.
P.O. Box 900
Sturtevant, WI 53177-0900

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

2024AP1661-CRNM State of Wisconsin v. Richard Tommy Williams
(L.C. #2021CF230)

Before Gundrum, P.J., Neubauer and Lazar, 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).

Richard Tommy Williams appeals a judgment of conviction, entered on his guilty plea, for injury by intoxicated use of a vehicle. His appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2021-22)¹ and *Anders v. California*, 386 U.S. 738 (1967). Williams was advised of his right to file a response and has not responded. After reviewing the record and counsel's report, we conclude that there are no issues with arguable merit for appeal. Therefore, we summarily affirm the judgment. *See* WIS. STAT. RULE 809.21.

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

According to a criminal complaint, at approximately 12:30 a.m., an officer stopped behind a vehicle on the side of the road with its hazard lights activated to determine if the occupant(s) needed assistance. As the officer approached the driver's side door, he observed Williams slumped over the front-seat passenger. A baby was also observed unrestrained in the back seat. The officer smelled intoxicants, and Williams' speech was low and slow, and he had difficulties keeping his eyes open. When the officer asked Williams to step out of the vehicle, Williams drove off at a high rate of speed. Officers followed Williams' direction of travel (they did not pursue because of the baby), and they found Williams' vehicle crashed in a marshy area. Williams fled on foot but was ultimately arrested. A third amended information charged Williams with injury by intoxicated use of a vehicle, two counts of second-degree recklessly endangering safety, attempting to flee an officer, obstructing an officer, injury by intoxicated use of a vehicle (based on his prohibited blood alcohol concentration), and operating with a restricted controlled substance in blood causing injury, second or subsequent offense, minor in the vehicle.

Pursuant to a plea agreement, Williams pled to injury by intoxicated use of a vehicle. The State agreed to recommend four years' initial confinement and five years' extended supervision concurrent to Williams' other sentences. The circuit court sentenced Williams to four years' initial confinement and five years' extended supervision concurrent to Williams' other sentences. This no-merit appeal follows.

The no-merit report addresses potential issues of whether Williams' pleas were knowingly, voluntarily, and intelligently entered and whether the circuit court properly exercised its discretion at sentencing.

With regard to the circuit court's plea colloquy, appellate counsel points out that the court did not expressly ask Williams during the plea hearing whether he knew the court was not bound by the plea agreement. *But see State v. Hampton*, 2004 WI 107, ¶42, 274 Wis. 2d 379, 683 N.W.2d 14 ("[T]he court must engage in a colloquy with the defendant on the record at the plea hearing to ascertain whether the defendant understands that the court is not bound by a sentencing recommendation from the prosecutor or any other term of the defendant's plea agreement."). However, counsel advises this court that there is no merit to seek plea withdrawal on this basis because "based on her conversations with Mr. Williams, undersigned counsel would not be able to allege in a postconviction motion that Mr. Williams was unaware of this information." We agree with counsel that there is no arguable merit to seek plea withdrawal on this basis. *See State v. Brown*, 2006 WI 100, ¶39, 293 Wis. 2d 594, 716 N.W.2d 906 (motion for plea withdrawal based on plea colloquy deficiency must "allege that the defendant did not know or understand the information that should have been provided at the plea hearing").

The remainder of the circuit court's plea colloquy sufficiently complied with the requirements of *Brown*, 293 Wis. 2d 594, ¶35, and Wis. STAT. § 971.08 relating to the nature of the charge, the rights Williams was waiving, and other matters. The record shows no other ground to withdraw the plea. We therefore agree with counsel's analysis and conclusion that any challenge to the validity of Williams' plea would lack arguable merit.

With regard to the circuit court's sentencing discretion, our review of the record confirms that the circuit court appropriately considered the relevant sentencing objectives and factors. *See State v. Odom*, 2006 WI App 145, ¶7, 294 Wis. 2d 844, 720 N.W.2d 695; *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. The resulting sentence was within the maximum authorized by law. *See State v. Scaccio*, 2000 WI App 265, ¶18, 240 Wis. 2d 95, 622

N.W.2d 449. The sentence was not so excessive so as to shock the public's sentiment. *See Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). Therefore, there would be no arguable merit to a challenge to the court's sentencing discretion.

Our independent review of the record discloses no other potential issues for appeal. This court accepts the no-merit report, affirms the judgment of conviction, and discharges appellate counsel of the obligation to represent Williams further in this appeal.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Pamela Moorshead is relieved of further representation of Richard Tommy Williams in this appeal. *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*