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DISTRICT II

April 9, 2025

To:

Hon. Gerad T. Dougville
Circuit Court Judge
Electronic Notice

Rebecca Matoska-Mentink
Clerk of Circuit Court
Kenosha County Courthouse
Electronic Notice

Annice Kelly
Electronic Notice

John Blimling
Electronic Notice

Andrew J. Atkinson #721424
Prairie Du Chien Correctional Inst.
P.O. Box 269
Prairie du Chien, WI 53821

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

2024AP1757-CRNM State of Wisconsin v. Andrew J. Atkinson (L.C. #2022CF1242)

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).

Andrew J. Atkinson appeals from a judgment convicting him of theft from a financial institution as a party to a crime and as a repeater. His appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2023-24)¹ and *Anders v. California*, 386 U.S. 738 (1967). Atkinson 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,

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

we conclude there are no issues with arguable merit for appeal. We summarily affirm the judgment. *See* WIS. STAT. RULE 809.21.

Atkinson was convicted following a guilty plea to theft from a financial institution as a party to a crime and as a repeater. He and two other men were accused of stealing money from an automated teller machine (ATM) after they had broken into it with pry bars and chains attached to a stolen truck. Several additional charges were dismissed and read in.² For his actions, the circuit court imposed a sentence of five years of initial confinement and three years of extended supervision. This no-merit appeal follows.

The no-merit report addresses whether Atkinson’s plea was knowing, voluntary, and intelligent, and whether the circuit court properly exercised its discretion at sentencing. This court is satisfied that the no-merit report correctly analyzes the issues it raises as without merit, and we will not discuss them further.

Our review of the record discloses no other potential issues for appeal.³ Accordingly, this court accepts the no-merit report, affirms the judgment of conviction, and discharges appellate counsel of the obligation to represent Atkinson further in this appeal.

² The dismissed and read-in charges were criminal damage to ATM/other machine, possession of burglarious tools, and driving/operating a vehicle without consent—all as a party to a crime and as a repeater.

³ We note that Atkinson’s plea 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.

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 Annice Kelly is relieved of further representation of Andrew J. Atkinson 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