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**DISTRICT II**

April 30, 2025

To:

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Circuit Court Judge  
Electronic Notice

John Blimling  
Electronic Notice

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

Rakayo A. Vinson #715462  
Green Bay Correctional Inst.  
P.O. Box 19033  
Green Bay, WI 54307-9033

Michael Griesbach  
Electronic Notice

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

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2024AP525-CRNM      State of Wisconsin v. Rakayo A. Vinson (L.C. #2021CF478)

Before Gundrum, P.J., Grogan, 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).**

Rakayo A. Vinson appeals from a judgment, following a jury trial, convicting him of three counts of first-degree intentional homicide, use of a dangerous weapon, and three counts of attempted first-degree intentional homicide, use of a dangerous weapon. His appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2023-24)<sup>1</sup> and *Anders v. California*, 386 U.S. 738 (1967). Vinson was advised of his right to file a response, and he has not

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2023-24 version.

responded. Based on our request, counsel also filed a supplemental no-merit report. After reviewing the Record and counsel's reports, we conclude that there are no issues with arguable merit for appeal. Therefore, we summarily affirm the judgment. *See* WIS. STAT. RULE 809.21.

Vinson was involved in an altercation inside a bar with three individuals. Security separated the individuals, and a bouncer took Vinson to the bar's side patio. There, Vinson encountered two of the individuals from the prior altercation. He pulled out a gun and began shooting. He shot and killed the two individuals from the altercation; he also shot three bystanders. Vinson then jumped over a fence separating the bar's patio from the bar's front exterior. He shot and killed the third individual from the altercation. At trial, multiple witnesses reported Vinson as the shooter, the incident was captured on security cameras, and police found Vinson's wallet and identification at the location where he jumped over the fence. Vinson testified that he acted in self-defense. The jury was instructed on first and second-degree intentional homicide and self-defense. Ultimately, the jury convicted Vinson of three counts of first-degree intentional homicide, use of a dangerous weapon, and three counts of attempted first-degree intentional homicide, use of a dangerous weapon. The circuit court sentenced Vinson to consecutive sentences of life in prison without the possibility of extended release on each of the three homicides and twenty-five years' initial confinement and fifteen years' extended supervision on each of the three attempted homicides.

The no-merit report addressed whether the evidence was sufficient to support Vinson's convictions, Vinson's conduct during trial and the circuit court's response, whether trial counsel was ineffective, whether the transcripts were accurate, whether the judge was biased, and whether the court appropriately exercised its sentencing discretion. We agree with counsel's analysis on these issues; however, we comment briefly on three of them—sufficiency of the

evidence, Vinson's conduct during trial, and sentencing. We also discuss Vinson's judgment of conviction.

The no-merit report first discusses whether the evidence was sufficient to support Vinson's convictions. When reviewing the sufficiency of the evidence, we may not substitute our judgment for that of the jury "unless the evidence, viewed most favorably to the state and the conviction, is so lacking in probative value and force that no trier of fact, acting reasonably, could have found guilt beyond a reasonable doubt." *State v. Poellinger*, 153 Wis. 2d 493, 507, 451 N.W.2d 752 (1990). Our review of the trial transcript persuades us that the State produced ample evidence to convict Vinson of his crimes. That evidence included testimony from eyewitnesses, the three-surviving victims, other witnesses, and law enforcement. The State also presented video surveillance and other forensic evidence. We agree with counsel that a challenge to the sufficiency of the evidence would lack arguable merit.

The no-merit report discusses Vinson's conduct during trial. Specifically, during trial, Vinson attempted to discharge his attorney but advised the circuit court he refused to represent himself and would not participate in trial until the court appointed him new counsel. The court advised Vinson he had not given an adequate reason to discharge counsel and the trial would proceed. Vinson continued to demand new counsel but refused to represent himself. The court advised Vinson about the dangers of self-representation and told Vinson that if he discharged his attorney, he would be representing himself for the rest of the trial. Later, while a witness was testifying, Vinson interjected and fired his trial counsel in front of the jury. After an exchange where Vinson repeatedly advised the court that he refused to be represented by trial counsel, refused to represent himself, and demanded a new attorney, the court determined that based on Vinson's conduct, he had forfeited his right to his attorney and he would represent himself. The

court directed counsel to remain as stand-by counsel to consult with Vinson and give him advice if requested. The court also directed counsel to be ready to step in and resume the role of trial counsel in the event Vinson requested.

Vinson's disruption continued, and eventually, the circuit court removed Vinson from the courtroom and set up a video-conference feed to allow Vinson to participate remotely. The court told Vinson he could return to the courtroom if he promised to behave. Vinson, however, left the video-conferencing room and refused to participate in trial the rest of the day.

The circuit court immediately instructed the jury not to consider Vinson's conduct in the evaluation of the case. It explained, "None of this has anything to do with whether he is guilty or not guilty of the crimes charged against him" and "his behavior with respect to this prosecution is no proof that he is guilty of the crimes now charged against him." The court also paused the trial on various occasions that day to have deputies ask Vinson if he would like to participate via video conference or even come back to the courtroom, if he behaved. Vinson refused.

The next morning, Vinson appeared in the courtroom and advised the circuit court he wanted trial counsel to continue to represent him. The court reinstated counsel and also permitted counsel to recall witnesses for cross-examination that had testified while Vinson was representing himself and refused to participate.

We agree with appointed counsel there is no issue of arguable merit in regard to how the circuit court handled Vinson's conduct during trial. First, the right to counsel is not unlimited and may be forfeited when the court becomes convinced that the orderly and efficient progression of a case is being frustrated by the defendant's own actions. *State v. Suriano*, 2017 WI 42, ¶21, 374 Wis. 2d 683, 893 N.W.2d 543. The Record reflects that during trial, Vinson

routinely attempted to interfere with the State's prosecution by refusing trial counsel's representation but also refusing to represent himself. Further, a defendant whose conduct is so disruptive that the trial cannot proceed in an orderly manner may be removed. *See Illinois v. Allen*, 397 U.S. 337, 343 (1970). The Record reflects that Vinson engaged in a continued outburst with the court during the State's case regarding his refusal to be represented by trial counsel and to represent himself.

Here, however, the circuit court took mitigating steps, allowing Vinson to participate via video conference and repeatedly inviting Vinson to participate or come back to the courtroom if he could adhere to proper decorum. Once Vinson decided he wanted to be represented again by trial counsel, the court allowed counsel to cross-examine the witnesses, or, in the case where one witness could not be reached, the parties stipulated as to what the witness would have testified to on cross-examination. This was reasonable and not in error.

In regard to the circuit court's sentencing discretion, our review of the Record confirms that the 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, we agree there would be no arguable merit to a challenge to the court's sentencing discretion.

Finally, during our review of the Record, we asked counsel to file a supplemental no-merit report regarding Vinson's repeater enhancers. We observed that in Vinson's judgment of

conviction, all of the counts contained the repeater enhancement. However, it appeared to this court that Vinson never stipulated that he was a repeater and the State never formally proved up Vinson's status as a repeater. We also observed that in the criminal complaint and information, the State charged Vinson as a repeater based on a 2016 felony conviction from Missouri. However, at trial, while discussing how many convictions Vinson would admit to during his testimony, the State advised the circuit court, Vinson's prior conviction "is a felony in Missouri, not an equivalent felony in Wisconsin." Under the habitual criminality statute, "[i]n case of crimes committed in other jurisdictions ... [a] felony means a crime which under the laws of that jurisdiction carries a prescribed maximum penalty of imprisonment in a prison ... for one year or more." *See* WIS. STAT. § 939.62(3)(b).

In a supplemental no-merit report, counsel explained that because the repeater enhancers were not used when the circuit court sentenced Vinson, the State stipulated and the court ordered that the repeater enhancers be stricken from the judgment of conviction. An amended judgment of conviction reflects that the repeater enhancers were removed. We agree with counsel there is no further issue regarding the repeater enhancers.

Our independent review of the Record discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit report, affirms the amended judgment of conviction, and discharges appellate counsel of the obligation to represent Vinson 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 Michael Griesbach is relieved from further representing Rakayo A. Vinson 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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*Samuel A. Christensen*  
*Clerk of Court of Appeals*