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DISTRICT I

May 6, 2025

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

2024AP607-CRNM

State of Wisconsin v. Christopher Allen Greer
(L.C. # 2022CF2749)

Before White, C.J., Geenen and Colón, 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).

Christopher Allen Greer appeals from his judgment of conviction entered after he pled guilty to first-degree reckless homicide. His appellate counsel, Attorney Olivia Garman, filed a no-merit report pursuant to *Anders v. California*, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32 (2023-24).¹ Greer was advised of his right to file a response, but he did not do so. Upon this court's independent review of the record as mandated by *Anders*, and counsel's report,

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

we conclude there are no issues of arguable merit that could be pursued on appeal. We therefore summarily affirm the judgment.

Greer pled guilty in March 2023 to first-degree reckless homicide in the shooting death of T.J. during an argument that began over the use of a microwave. Pursuant to the plea agreement, penalty enhancers for the use of a dangerous weapon and habitual criminality were dismissed. A second count charged in the complaint, possession of a firearm by a felon as a repeater, was also dismissed but read in for sentencing purposes. The circuit court imposed a sentence of thirty-two years of initial confinement followed by fifteen years of extended supervision. This no-merit appeal follows.

In the no-merit report, appellate counsel addresses two issues: whether there would be arguable merit to appealing the validity of Greer's plea; and whether there would be arguable merit to a claim that the circuit court erroneously exercised its discretion in sentencing Greer. We agree with appellate counsel's analysis that there would be no arguable merit to an appeal of either of these issues.

A plea is not constitutionally valid if it is not knowingly, voluntarily, and intelligently entered. *State v. Bangert*, 131 Wis.2d 246, 257, 389 N.W.2d 12 (1986). This may be established if the requirements set forth in WIS. STAT. § 971.08 and *Bangert* are not met during the plea colloquy by the circuit court. *State v. Brown*, 2006 WI 100, ¶¶23, 34-35, 293 Wis. 2d 594, 716 N.W.2d 906.

Here, the plea colloquy by the circuit court mostly complied with these requirements, with a few deficiencies. First, appellate counsel points out that the circuit court's warning regarding deportation deviated from the language of WIS. STAT. § 971.08(1)(c). However, minor

deviations from the statutory language do not undermine the validity of the plea. *State v. Mursal*, 2013 WI App 125, ¶20, 351 Wis. 2d 180, 839 N.W.2d 173. Furthermore, before a defendant can seek plea withdrawal based on the failure to comply with § 971.08(1)(c), that defendant must show “that the plea is likely to result in the defendant’s deportation, exclusion from admission to this country or denial of naturalization[.]” Sec. 971.08(2). There is nothing in the record to suggest that Greer could make such a showing.

Appellate counsel also notes that the circuit court did not review with Greer all of the constitutional rights that are waived upon entering a plea. *See Brown*, 293 Wis. 2d 594, ¶35. Nevertheless, Greer completed a plea questionnaire and waiver of rights form, in which he acknowledged all constitutional rights being waived. Although not a substitute for a colloquy, the plea questionnaire and waiver of rights form “lessen[s] the extent and degree of the colloquy otherwise required between the [circuit] court and the defendant[.]” *State v. Hoppe*, 2009 WI 41, ¶42, 317 Wis. 2d 161, 765 N.W.2d 794 (first alteration in original; citation omitted).

Finally, appellate counsel recognizes that the circuit court did not verify that there had been no promises or threats made to induce Greer to enter the plea. However, this colloquy requirement was also acknowledged by Greer on the plea questionnaire and waiver of rights form. *See id.* Furthermore, counsel represents that Greer would not be able to meet his burden to obtain an evidentiary hearing based on this colloquy defect. *See State v. Moederndorfer*, 141 Wis. 2d 823, 829 n.2, 416 N.W.2d 627 (Ct. App. 1987) (stating that this court will not “deem the record to be *prima facie* defective” for such a colloquy deficiency unless the defendant “alleges that a threat was actually made”). In the absence of an objection from Greer, we accept this representation by counsel. We therefore agree with counsel’s assessment that there are no issues of arguable merit relating to Greer’s plea.

With regard to sentencing, the record reflects that the circuit court properly exercised its discretion in considering proper and relevant sentencing objectives and factors. *See State v. Gallion*, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197. “The principal objectives of a sentence include, but are not limited to, the protection of the community, the punishment of the defendant, 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. With regard to these objectives, the circuit court must consider the primary sentencing factors, which are the gravity of the offense, the character of the offender, and the need to protect the public. *Id.* Other relevant factors may also be considered. *Id.* Here, the circuit court explained that the objectives it considered of “greatest importance” were punishment and deterrence, due to the danger of Greer’s lack of impulse control demonstrated by his shooting the victim during an argument, and his failure at rehabilitation after previous convictions. *See id.*

Furthermore, Greer’s sentence is within the statutory maximum, and is therefore presumed not to be unduly harsh or unconscionable. *See State v. Grindemann*, 2002 WI App 106, ¶32, 255 Wis. 2d 632, 648 N.W.2d 507. For these reasons, we agree with appellate counsel’s conclusion that there would be no arguable merit to a challenge of Greer’s sentence.

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

For all the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Olivia Garman is relieved of further representation of Greer in this matter. *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