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DISTRICT III

June 24, 2025

To:

Hon. Katherine Sloma
Circuit Court Judge
Electronic Notice

Ethan Schmidt
Clerk of Circuit Court
Shawano County Courthouse
Electronic Notice

John Blimling
Electronic Notice

Megan Elizabeth Lyneis
Electronic Notice

Kyle J. Pecore
907 South Sawyer Street
Shawano, WI 54166

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

2024AP2544-CRNM	State of Wisconsin v. Kyle J. Pecore
2024AP2545-CRNM	(L. C. Nos. 2021CF67, 2021CF475)

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).

In these consolidated appeals, counsel for Kyle J. Pecore has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2023-24),¹ concluding that no grounds exist to challenge Pecore's convictions for attempting to flee or elude an officer; five counts of possession with intent to deliver methamphetamine (more than three but not more than ten grams), as a repeater; one count of possession with intent to deliver methamphetamine (three grams or less), as a repeater; and five counts of felony bail jumping, as a repeater. Pecore was informed of his right

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

to file a response to the no-merit report, but he has not responded. Upon our independent review of the appellate records as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude that there is no arguable merit to any issue that could be raised on appeal. Therefore, we summarily affirm the judgments of conviction. *See* WIS. STAT. RULE 809.21.

In Shawano County Case No. 2021CF67, the State charged Pecore with one count of attempting to flee or elude an officer. According to the criminal complaint, a sheriff's deputy attempted to stop a vehicle after a records check showed that its registered owner had a suspended driver's license. The vehicle failed to stop after the deputy activated his squad car's emergency lights and siren. A chase ensued, during which the vehicle reached speeds of up to 110 miles per hour. The vehicle ultimately lost control and went into a ditch. The deputy then apprehended the driver, who was subsequently identified as Pecore.

Thereafter, in Shawano County Case No. 2021CF475, the State charged Pecore with 24 counts, each as a repeater: 5 counts of possession with intent to deliver methamphetamine (more than 3 but not more than 10 grams); 1 count of possession with intent to deliver methamphetamine (3 grams or less); 6 counts of possession with intent to deliver narcotics; and 12 counts of felony bail jumping. The criminal complaint alleged that a police officer was observing a residence in the City of Shawano after receiving an anonymous tip that an individual named Nicholas Temple was living there.² The officer saw Temple in a car that was approaching the residence, and as the officer neared the residence's driveway, he saw two

² At a hearing on Pecore's suppression motions, an officer explained that Temple had active arrest warrants and that law enforcement had received information that he was selling controlled substances. The officer also testified that Pecore had active arrest warrants at that time.

individuals “take off running” from the vehicle. The vehicle’s driver confirmed that one of those individuals was Pecore.

Officers then went to a nearby residence to search for Pecore. After receiving consent to search the residence and its garage, they located Pecore hiding inside a cabinet in the garage. While the officers were arresting Pecore, they noticed that he “was trying to reach in his pants.” In addition, an officer found “a hollow pen tube and tinfoil with burn marks on it” in the location where Pecore had been hiding. During a subsequent strip search at the jail, a correctional officer saw a baggie in Pecore’s “rectal region,” and Pecore informed the officers that he had “a bag in his anus.” Pecore was unable to remove the bag, so he was transported to the hospital, where multiple bags were removed from his body. The substances inside the bags field-tested positive for methamphetamine and fentanyl.

According to the criminal complaint in Case No. 2021CF475, these events took place while Pecore was released on bond in a Brown County case and in Case No. 2021CF67. Additionally, the complaint alleged that Pecore had a previous felony conviction from November 2019.

The Office of the State Public Defender (SPD) appointed the same attorney to represent Pecore in Case Nos. 2021CF67 and 2021CF475. That attorney ultimately moved to withdraw, however, citing a breakdown in communication. The circuit court granted the motion and confirmed that the SPD would look for a new attorney to represent Pecore.

Despite numerous attempts, the SPD was unable to find a new attorney for Pecore. At a status conference on June 2, 2022, Pecore informed the circuit court that he “would like to represent [himself], but in the meantime be able to still seek for counsel.” The court then

conducted a waiver-of-counsel colloquy with Pecore, after which the court found that Pecore had freely, voluntarily, and intelligently waived his right to counsel.

The SPD continued to be unsuccessful in securing counsel for Pecore. In the meantime, Pecore represented himself and filed motions on his own behalf, including suppression motions, while waiting for a public defender. The circuit court ultimately denied Pecore's suppression motions following an evidentiary hearing. After doing so, the court confirmed that Pecore still wanted to represent himself and conducted a second waiver-of-counsel colloquy. Again, the court found that Pecore had freely, voluntarily, and intelligently waived his right to counsel.

The parties subsequently reached a plea agreement to resolve both pending cases against Pecore. The agreement provided that Pecore would enter guilty or no-contest pleas to the fleeing or eluding count in Case No. 2021CF67, to all six methamphetamine possession counts in Case No. 2021CF475, and to five felony bail jumping counts in Case No. 2021CF475. The remaining felony bail jumping counts would be dismissed and read in, and the six counts of possession with intent to deliver narcotics would be dismissed outright. The parties agreed to jointly recommend concurrent sentences in Case No. 2021CF475 of five years' initial confinement followed by five years' extended supervision on each of the methamphetamine possession charges and two years' initial confinement followed by three years' extended supervision on each of the bail jumping charges. In Case No. 2021CF67, the parties agreed to jointly recommend 18 months' initial confinement followed by 2 years' extended supervision. However, the State would argue that the sentence in Case No. 2021CF67 should be consecutive to the sentences in Case No. 2021CF475, whereas Pecore would argue that the sentence in Case No. 2021CF67 should be concurrent to the sentences in Case No. 2021CF475.

At the beginning of the plea hearing, the circuit court conducted a third waiver-of-counsel colloquy with Pecore and again found that he had freely, voluntarily, and intelligently waived his right to counsel. The court then conducted a plea colloquy, after which it accepted Pecore's no-contest pleas, finding that they were freely and voluntarily entered. The court also found that the facts alleged in the criminal complaints provided an adequate factual basis for Pecore's pleas.

The circuit court then proceeded directly to sentencing. After hearing from both sides and considering Pecore's treatment needs, the seriousness of the offenses, Pecore's character, and the need to protect the public, the court followed the parties' joint recommendation as to the length of the sentences in both cases. Consistent with Pecore's request, the court made all sentences in both cases concurrent to one another.

The no-merit report addresses: (1) whether Pecore's no-contest pleas were knowing, intelligent, and voluntary; (2) whether Pecore knowingly, intelligently, and voluntarily waived his right to counsel; (3) whether the circuit court erred by denying Pecore's suppression motions; and (4) whether the court erroneously exercised its sentencing discretion. We agree with counsel's description, analysis, and conclusion that these potential issues lack arguable merit, and we therefore do not address them further. Subject to an exception for certain double jeopardy claims, which is not applicable here, Pecore's valid no-contest pleas forfeited the right to raise all other nonjurisdictional defects and defenses. *See State v. Kelty*, 2006 WI 101, ¶¶18 & n.11, 34, 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.

Our independent review of the records discloses no other potential issues for appeal.

Therefore,

IT IS ORDERED that the judgments are summarily affirmed. WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Megan Elizabeth Lyneis is relieved of further representation of Kyle J. Pecore in these matters. *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