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**DISTRICT IV**

June 26, 2025

To:

Hon. John M. Wood  
Circuit Court Judge  
Electronic Notice

John Blimling  
Electronic Notice

Amanda Nelson  
Clerk of Circuit Court  
Rock County Courthouse  
Electronic Notice

Kathleen A. Lindgren  
Electronic Notice

Brenda Jean McIntyre, 193386  
Robert Ellsworth Correctional Center  
21425-A Spring St.  
Union Grove, WI 53182-9408

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

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2024AP825-CRNM      State of Wisconsin v. Brenda Jean McIntyre (L.C. # 2022CF465)

Before Blanchard, Nashold, and Taylor, 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).**

Attorney Kathleen Lindgren, as appointed counsel for Brenda Jean McIntyre, has 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). Counsel provided McIntyre with a copy of the report, and both counsel and this court advised her of her right to file a response. McIntyre has not responded. We conclude that this case is appropriate for summary disposition. See WIS. STAT. RULE 809.21. After our

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

independent review of the record, we conclude that there is no arguable merit to any issue that could be raised on appeal.

McIntyre pled guilty to one count of operating while intoxicated (OWI), as a ninth offense, contrary to WIS. STAT. §§ 346.63(1)(a), 346.65(2)(am)6. Pursuant to the plea agreement, McIntyre pled guilty to OWI (9th), and two other criminal counts were dismissed and read in. Consistent with the plea agreement, the State recommended five years of initial confinement and five years of extended supervision at the sentencing hearing. The circuit court ultimately imposed a sentence consisting of four years of initial confinement and four years of extended supervision. The court awarded 227 days of sentence credit to McIntyre, based on the parties' stipulation.

The no-merit report addresses whether McIntyre's plea was entered knowingly, voluntarily, and intelligently. The plea colloquy sufficiently complied with the requirements of *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906, and WIS. STAT. § 971.08 relating to the nature of the charge, the rights McIntyre was waiving, and other matters. The record shows no other ground to withdraw the plea. There is no arguable merit to this issue.

The no-merit report also addresses the sentence. As explained in the no-merit report, the sentence imposed was within the legal maximum. As to discretionary issues, the standards to be applied by the sentencing court and our standards of review are well-established and need not be repeated here. See *State v. Gallion*, 2004 WI 42, ¶¶17-51, 270 Wis. 2d 535, 678 N.W.2d 197. In this case, the circuit court considered appropriate factors, did not consider improper factors, and reached a reasonable result. There is no arguable merit to this issue.

The no-merit report also discusses whether McIntyre could seek resentencing for a lower-numbered OWI offense, based on an argument that there was insufficient evidence to support the

circuit court’s finding that she had eight prior OWI convictions. *See State v. Loayza*, 2021 WI 11, 395 Wis. 2d 521, 954 N.W.2d 358. The record reflects that, during the plea colloquy, the court went over each of McIntyre’s prior convictions and considered comments from the defendant and her counsel regarding those prior convictions. The court then asked, “And you acknowledge you have all those other prior convictions?” The defendant answered, “Yes.”

Our supreme court has stated that, “[i]f an accused admits to a prior offense[,] that admission is, of course, competent proof of a prior offense and the State is relieved of its burden to further establish the prior conviction.” *State v. Wideman*, 206 Wis. 2d 91, 105, 556 N.W.2d 737 (1996). When there is an admission of the prior offenses, “we need not comment further on the other methods by which the State may establish prior offenses.” *Id.* at 107. We agree with counsel that there would be no arguable merit to an argument that McIntyre is entitled to resentencing for a lower-numbered OWI.

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

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

IT IS FURTHER ORDERED that Attorney Lindgren is relieved of further representation of McIntyre in this matter. *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*