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DISTRICT II

July 16, 2025

To:

Hon. Wynne P. Laufenberg
Circuit Court Judge
Electronic Notice

Amy Vanderhoef
Clerk of Circuit Court
Racine County Courthouse
Electronic Notice

Jill Marie Skwor
Electronic Notice

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Cory S. Price #704933
Kettle Moraine Correctional Inst.
P.O. Box 282
Plymouth, WI 53073-0282

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

2024AP258-CRNM State of Wisconsin v. Cory S. Price (L.C. #2019CF884)

Before Neubauer, 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).

Cory S. Price appeals a judgment of conviction, entered on his no-contest pleas, for homicide by intoxicated use of a vehicle and knowingly operating a motor vehicle while suspended, causing great bodily harm. 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). Price was advised of his right to file a response and has not responded. After reviewing the Record and

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

counsel's report, we conclude that there are no issues with arguable merit for appeal. Therefore, we summarily affirm the judgment. *See* WIS. STAT. RULE 809.21.

While driving his car almost 30 miles over the speed limit, Price crossed the center line and hit an oncoming vehicle. Price's passenger was killed, and the driver of the other vehicle was injured. Subsequent testing of Price's blood revealed the presence of alcohol and drugs. Price also did not have a valid driver's license at the time of the incident. The State charged Price with homicide by intoxicated use of a vehicle, homicide by negligent operation of a vehicle, intoxicated use of a vehicle – great bodily harm, knowingly operating a motor vehicle while suspended causing death, and knowingly operating a motor vehicle while suspended causing great bodily harm.

During pretrial proceedings, Price's competency was questioned on two occasions. Both times, the circuit court ordered competency evaluations and ultimately held contested competency hearings. The court-appointed psychologist was different for each evaluation and the only witness for each competency hearing. At both hearings, the respective doctor testified Price was competent. Each time, based on the evidentiary hearing and the doctor's report, the court found Price competent.

Pursuant to a plea agreement, Price pled to homicide by intoxicated use of a vehicle and knowingly operating a motor vehicle while suspended causing great bodily harm. The remaining charges were dismissed and read in. The circuit court sentenced Price to consecutive sentences of 11 years' initial confinement and 10 years' extended supervision on the homicide count, and 18 months' initial confinement and 2 years' extended supervision on the operating-while-suspended-causing-great-bodily-harm count.

Price filed a postconviction motion regarding his eligibility for prison programming. Price noted that although he was statutorily ineligible for prison programming on the homicide conviction, he was eligible for programming on the operating-while-suspended conviction. Ultimately, the circuit court issued an amended judgment of conviction making Price eligible for the Substance Abuse Program on the operating-while-suspended conviction. This no-merit appeal follows.

The no-merit report addresses potential issues of whether the circuit court properly determined Price was competent to proceed, whether Price's pleas were knowingly, voluntarily, and intelligently entered, and whether the court properly exercised its discretion at sentencing. Upon reviewing the Record, we agree with counsel's analysis and conclusion that there is no arguable basis to pursue any of these issues. We briefly comment on them.

The no-merit report first addresses whether there would be any arguable merit to challenge the circuit court's competency determinations. "No person who lacks substantial mental capacity to understand the proceedings or assist in his or her defense may be tried, convicted, or sentenced for the commission of an offense so long as the incapacity endures." *State v. Byrge*, 2000 WI 101, ¶28, 237 Wis. 2d 197, 614 N.W.2d 477 (citation omitted). "To determine legal competency, the [circuit] court considers a defendant's present mental capacity to understand and assist at the time of the proceedings." *Id.*, ¶31. A court's competency determination is reversed only when clearly erroneous. *Id.*, ¶45. Here, the court considered the relevant facts, which included the doctors' reports and testimony, and twice reasoned its way to a rational conclusion regarding Price's competency. We agree with counsel that any challenge to the court's competency determinations would lack arguable merit.

We also agree with counsel's conclusion that any challenge to the validity of Price's pleas would lack arguable merit. *See State v. Bangert*, 131 Wis. 2d 246, 260, 389 N.W.2d 12 (1986). Our review of the Record and counsel's analysis in the no-merit report satisfies us that the circuit court complied with its obligations for taking Price's pleas. *See* WIS. STAT. § 971.08; *Bangert*, 131 Wis. 2d at 261-62; *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906.

With 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). Further, following Price's postconviction motion, the court made Price eligible for the Substance Abuse Program on the operating-while-suspended conviction. There would be no arguable merit to a challenge to the court's sentencing discretion.

Our independent review of the Record discloses no other potential issues for appeal. This court accepts the no-merit report, affirms the judgment of conviction, and discharges appellate counsel of the obligation to represent Price 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 Jill Marie Skwor is relieved from further representing Cory S. Price 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