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DISTRICT I

July 22, 2025

To:

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Circuit Court Judge
Electronic Notice

Anna Hodges
Clerk of Circuit Court
Milwaukee County Safety Building
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John Blimling
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You are hereby notified that the Court has entered the following opinion and order:

2024AP1094-CRNM State of Wisconsin v. Breyon Marquel Wright
(L.C. # 2022CF3411)

Before White, C.J., Donald, P.J., and Colón, J.

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).

Breyon Marquel Wright appeals from his judgment of conviction entered after he pled guilty to second-degree reckless homicide using a dangerous weapon. His appellate counsel, Attorney Mark S. Rosen, filed a no-merit report pursuant to ***Anders v. California***, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32 (2023-24).[1] Wright received a copy of the report and filed a response, and counsel filed a supplemental letter report. Upon this court's independent review of

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

the record as mandated by ***Anders***, counsel's reports, and Wright's response, we conclude there are no issues of arguable merit that could be pursued on appeal. We therefore summarily affirm.

Wright was charged in the shooting death of Joseph L. Jones in August 2022. Jones was found in an alley behind a residence on North 76th Street in Milwaukee with a gunshot wound to the chest and a 9mm gun in his hand. Police interviewed two witnesses who had heard an argument between Jones and another man in the alley. One of the witnesses, who identified Jones as her neighbor, saw Jones "talking loudly" with a Black male in a Chevrolet Equinox parked in the alley. She then saw the man get out of the Equinox with a gun in his hand "extended out," and Jones with a gun in his hand "pointed down." As she went to call 911, she heard four to five gunshots. She then returned to her window and saw Jones lying in the alley. The other witness heard the gunshots and saw a man wearing dark clothes running from the alley where Jones was found.

Surveillance video footage from the alley showed a man matching the witnesses' descriptions running down the alley shortly after the shooting. He had an object in his hand, which appeared to be a firearm, that he tucked into his waistband. The camera obtained a clear photo of the suspect's face, and he was identified as Wright. Additionally, the Equinox—which had recently been reported stolen—remained parked in the alley where the shooting occurred, and was found to contain Wright's fingerprints.

Wright was charged with first-degree intentional homicide using a dangerous weapon, and two counts of felony bail jumping. He opted to resolve these charges with a plea. Pursuant to the plea agreement, the homicide charge was reduced to second-degree reckless homicide using a dangerous weapon, and the bail jumping counts were dismissed but read in for sentencing

purposes. The circuit court imposed a sentence of ten years of initial confinement to be followed by eight years of extended supervision. Furthermore, Wright agreed to pay $2,300 in restitution to Jones's family for funeral costs. This no-merit appeal follows.

In the no-merit report, appellate counsel first addresses the delay of Wright's preliminary hearing past the ten-day statutory limit. *See* WIS. STAT. § 970.03(2) (2021-22); ***State v. Lee***, 2021 WI App 12, ¶¶59, 61, 396 Wis. 2d 136, 955 N.W.2d 424 (stating that the failure to hold a preliminary hearing within the statutory time limits, absent a finding of good cause for the delay, "results in a loss of personal jurisdiction," requiring the dismissal of the charges without prejudice). The deadline for Wright's preliminary hearing was September 7, 2022; however, the hearing was adjourned due to appointed counsel's delay in completing the appointment paperwork.

A hearing regarding the delay was held before the circuit court on September 19, 2022. An attorney from the Office of the State Public Defender explained that Wright was being represented in another case by an attorney who was not approved for providing representation in homicides, but that arrangements were being made to allow that attorney to represent Wright in this case with co-counsel. The circuit court determined that this constituted good cause for the delay. *See* WIS. STAT. § 970.03(2) (2021-22); ***Lee***, 396 Wis. 2d 136, ¶59 (stating that the circuit court "should recite on the record the factors that lead it to find good cause and why such factors override the statutory directive that a preliminary hearing be promptly held"). We agree with appellate counsel's assessment that there would be no arguable merit to a challenge regarding the delay of Wright's preliminary hearing.

The no-merit report next addresses whether there would be arguable merit to appealing the validity of Wright's plea. 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. The record reflects that the plea colloquy by the circuit court complied with these requirements. Furthermore, the court confirmed that Wright signed and understood the plea questionnaire and waiver of rights form, which further demonstrates that his plea was knowingly, voluntarily, and intelligently entered. *See* ***State v. Moederndorfer***, 141 Wis. 2d 823, 827, 416 N.W.2d 627 (Ct. App. 1987). Therefore, we agree with appellate counsel's conclusion that there would be no arguable merit to a challenge of the validity of Wright's plea.

The no-merit report also addresses whether there would be arguable merit to a claim that the circuit court erroneously exercised its discretion in sentencing Wright. The record reflects that the 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; ***State v. Ziegler***, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. Additionally, Wright'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. We therefore agree with appellate counsel's conclusion that there would be no arguable merit to a challenge of Wright's sentence.

In his response, Wright asserts that his trial counsel was ineffective for not seeking to suppress his custodial statements to police. However, Wright's counsel did file a motion to suppress these statements on his behalf, but the motion was later withdrawn when Wright opted to resolve the matter with a plea. Furthermore, the record reflects that at the plea hearing, the circuit court confirmed with Wright that he understood that a hearing on the suppression motion was included in the rights and defenses he was relinquishing by entering a guilty plea. *See* ***State v. Villegas***, 2018 WI App 9, ¶47, 380 Wis. 2d 246, 908 N.W.2d 198 (stating that "a valid guilty plea 'represents a break in the chain of events which has preceded it in the criminal process,'" and therefore "a defendant 'may not thereafter raise independent claims relating to the deprivation of constitutional rights' outside of an attack on the plea itself" (citation omitted)).

Wright also contends that he was "coerced" into taking the plea deal, and that he had informed his trial counsel that he wanted to go to trial with a strategy of self defense. However, on the Addendum to the Plea Questionnaire there is a statement that indicates an understanding of the defenses being given up by a defendant upon entering a guilty plea, including self defense. On the form signed by Wright, the term "self defense" is circled in that statement, indicating that this was specifically addressed by Wright's trial counsel when the form was presented and

explained to Wright. Furthermore, the circuit court also confirmed with Wright during the plea colloquy that he had not been threatened or coerced into entering the plea.[2]

Therefore, we agree with appellate counsel that Wright has raised no issues of arguable merit in his response.[3] Our independent review of the record discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit reports, affirms the conviction, and discharges appellate counsel of the obligation to represent Wright 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 Mark S. Rosen is relieved of further representation of Wright 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

[2] At sentencing, the circuit court noted that Wright "may well have had a plausible self-defense claim," given that a spent cartridge was found in the chamber of Jones's gun, "which means [Jones] fired or tried to fire, and the gun did not properly discharge." The court observed that these "factual ambiguities" probably did not support first-degree intentional homicide, as was initially charged, but that "a first-degree reckless homicide charge would not have been improper, and so the amendment down to the second-degree already … has provided Mr. Wright with some benefit as well as the dismissal of the bail-jumping[]" counts.

[3] Wright also asserts that both his trial and appellate counsel "refused to investigate" his case. However, this claim is conclusory and undeveloped, and we do not develop arguments for parties. *See* ***State v. Pettit***, 171 Wis. 2d 627, 647, 492 N.W.2d 633 (Ct. App. 1992).