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DISTRICT I

August 5, 2025

To:

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Circuit Court Judge
Electronic Notice

Anna Hodges
Clerk of Circuit Court
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You are hereby notified that the Court has entered the following opinion and order:

2023AP2341-CRNM State of Wisconsin v. Chauncey Edward Griffin
(L.C. # 2018CF2767)

Before Colón, P.J., Geenen, 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).

Chauncey Edward Griffin appeals from his judgment of conviction entered after he pled guilty to one count of conspiracy to deliver cocaine and one count of conspiracy to deliver heroin, both as second or subsequent offenses, and three counts of possession of a firearm by a felon. His appellate counsel, Attorney David Malkus, filed a no-merit report pursuant to ***Anders v. California***, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32 (2023-24).[1] Griffin

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

was advised of his right to file a response, but he did not do so.[2] Upon this court's independent review of the record as mandated by ***Anders***, and counsel's report, we conclude there are no issues of arguable merit that could be pursued on appeal. We therefore summarily affirm.

Griffin was charged in an 80-page complaint, naming more than 20 defendants, after a lengthy investigation by numerous law enforcement agencies into a drug trafficking organization. Griffin opted to resolve the matter with a plea. In return for pleading guilty to the two drug conspiracy counts and three counts of possession of a firearm by a felon, 13 additional counts of possession of a firearm by a felon were dismissed and read in for sentencing purposes.

After entering his pleas, Griffin, through newly appointed counsel, filed a motion to withdraw his pleas prior to sentencing. He argued that (1) his previous counsel had not allowed for sufficient time for Griffin to review the "voluminous" discovery in the case; (2) counsel had not shown him the motion counsel filed seeking a ***Miranda-Goodchild***[3] hearing regarding his custodial statements to police; and (3) during the plea colloquy, the circuit court did not inquire about whether Griffin was taking any medications, and that Griffin had in fact not been given his anxiety medication on the day he entered his plea.

A hearing was held on the motion for plea withdrawal, during which both Griffin and his previous trial counsel testified. The circuit court found that Griffin had not established a fair and just reason for plea withdrawal. With regard to the first argument, the court noted that counsel

[2] Griffin requested four extensions of the deadline for filing his response after the no-merit report was filed on January 10, 2024. The deadline after his most recent request was April 7, 2025, but Griffin never filed a response.

[3] *See* ***Miranda v. Arizona***, 384 U.S. 436 (1966); ***State ex rel. Goodchild v. Burke***, 27 Wis. 2d 244, 133 N.W.2d 753 (1965).

had provided Griffin with a 20-page summary of the discovery material several months before the plea hearing, and that there was no testimony that this document was inaccurate or incomplete. Counsel also testified that he had spent nearly 50 hours with Griffin reviewing discovery, and the court found his testimony to be credible. In fact, the record reflects that the final pretrial conference was adjourned several times to allow for Griffin's counsel to review discovery with him.

Regarding the second argument, the court observed that Griffin did not testify that he would have changed anything in the motion for the ***Miranda-Goodchild*** hearing requested by counsel. Furthermore, the court observed that "[t]he written motion itself is not going to provide the factual information that a [c]ourt would use to decide it," but rather the court would base its decision by "listening or viewing the recorded interview itself and then hearing testimony of witnesses" at the hearing. In this case, there was no hearing on the motion because the matter was resolved by plea before the motion was scheduled to be heard.

As for Griffin's third argument, that he had not received his anxiety medication prior to entering his plea, the circuit court noted Griffin's testimony that he had only started taking the medication when he was incarcerated after his extended supervision in a separate case was revoked due to these charges. Griffin also admitted that he did not inform his prior counsel that he had not been given the medication prior to entering his plea.

Additionally, the court stated that Griffin had never raised the issue of not receiving medication during the plea hearing. It further noted that Griffin was not "shy" and that he felt comfortable addressing the court directly. The court found that during the plea hearing Griffin was "responsive," "attentive," "on point," that he "understood what needed to be addressed," and

that he "never expressed to [the court] that he was having trouble understanding anything that was being related to him[.]" Therefore, the court did not find Griffin's testimony credible as to this issue.

Based on these reasons, the circuit court rejected Griffin's arguments and denied his motion to withdraw his pleas. The matter then proceeded to sentencing, where the court imposed concurrent sentences of 18 years of initial confinement followed by six years of extended supervision for the drug conspiracy convictions, and terms of four years of initial confinement followed by five years of extended supervision for each of the firearm possession convictions, concurrent to each other but consecutive to the drug conspiracy convictions. This no-merit appeal follows.

The no-merit report first addresses whether there would be arguable merit to appealing the validity of Griffin's pleas. 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 circuit court confirmed that Griffin signed and understood the plea questionnaire and waiver of rights form, which further demonstrates that his pleas were 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 assessment that there would be no arguable merit to a challenge of the validity of Griffin's pleas.

The no-merit report next addresses whether there would be arguable merit to challenging the circuit court's denial of Griffin's motion to withdraw his pleas prior to sentencing. "[A] circuit court should 'freely allow a defendant to withdraw his plea prior to sentencing for any fair and just reason, unless the prosecution [would] be substantially prejudiced.'" ***State v. Jenkins***, 2007 WI 96, ¶2, 303 Wis. 2d 157, 736 N.W.2d 24 (citation omitted; second set of brackets in ***Jenkins***). This decision rests within the discretion of the circuit court, which gives the court "latitude in assessing the defendant's reason and determining whether it is fair and just under the circumstances." ***Id.***, ¶29.

Withdrawal of a guilty plea prior to sentencing, however, "is not an absolute right." ***Id.***, ¶32. Rather, the defendant must prove by a preponderance of the evidence that he or she has a fair and just reason for withdrawal. ***Id.*** This reason "must be something other than the desire to have a trial, or belated misgivings about the plea." ***Id.*** (internal citation omitted).

In rejecting Griffin's arguments in his motion for plea withdrawal, the circuit court concluded that Griffin had not met his burden of establishing a fair and just reason for withdrawal. Indeed, during its oral ruling, the court stated:

> I think that [Griffin] just has what the State termed buyer's remorse, that he just is thinking now that he might want to play the game a different way and take a swing at a trial, but that's just—changing your mind for strategic reasons, for gamesmanship is not a fair and just reason for withdrawal of plea, and so that's what I'm concluding essentially is occurring here.

In reviewing the circuit court's findings of evidentiary or historical fact, this court applies the deferential clearly erroneous standard. *See* ***id.***, ¶33. This standard also applies to credibility determinations, *see* ***id.***, which the court indicated played a large role in its decision.

In short, this court "must affirm the circuit court's decision as long as it was demonstrably 'made and based upon the facts appearing in the record and in reliance on the appropriate and applicable law.'" ***Id.***, ¶6 (citations and some internal quotation marks omitted). The record from the hearing on the motion, as previously discussed, reflects that the circuit court's decision was based on appropriate factual and credibility findings and the applicable law. Therefore, we agree with appellate counsel's analysis that there would be no arguable merit to a challenge of the circuit court's denial of Griffin's motion to withdraw his pleas prior to sentencing.

Finally, the no-merit report addresses whether there would be arguable merit to a claim that the circuit court erroneously exercised its discretion in sentencing Griffin. 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; ***State v. Ziegler***, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. Additionally, Griffin's sentences are within the statutory maximums, and are thus 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 Griffin's sentences.

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 Griffin 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 David Malkus is relieved of further representation of Griffin 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