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DISTRICT II

August 20, 2025

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Circuit Court Judge
Electronic Notice

Jill Marie Skwor
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Rebecca Matoska-Mentink
Clerk of Circuit Court
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Devion Demarco Garrett #617332
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You are hereby notified that the Court has entered the following opinion and order:

2025AP33-CRNM

State of Wisconsin v. Devion Demarco Garrett
(L.C. #2022CF1691)

Before Neubauer, P.J., Gundrum, 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).

Devion Demarco Garrett appeals from a judgment of conviction entered upon his guilty pleas. 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). Garrett received a copy of the report, was advised of his right to file a response, and has elected not to do so. Upon consideration of

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

the report and an independent review of the record, we conclude there are no issues with arguable merit for appeal. We summarily affirm. *See* WIS. STAT. RULE 809.21.

Garrett was convicted following guilty pleas to fleeing and eluding an officer and second-degree recklessly endangering safety, both as a repeater. The charges stemmed from an attempted traffic stop of a vehicle Garrett was driving erratically at high speeds. The chase ended after the vehicle Garrett was driving crashed into a field of cattails. Garrett fled on foot. Police later discovered Garrett with cattail fluff stuck to his sweatshirt, as well as illegal drugs and guns that had been in Garrett's vehicle during the chase. Garrett was on felony probation at the time of the chase. Pursuant to a plea agreement with the State, charges of possession with intent to deliver THC, as a second and subsequent offense, and felon in possession of a firearm, both as party to a crime and with a repeater enhancer, were dismissed and read in.

The circuit court ordered that a presentence investigation be conducted and a report prepared. The court adopted the sentencing recommendations of the presentence investigator. For the fleeing count, the court ordered a five-year prison sentence comprised of three years of initial confinement and two years of extended supervision, imposed and stayed for a three-year term of probation. For the reckless endangerment count, the court ordered a seven-year prison sentence—four years initial confinement and three years extended supervision. The court imposed the sentences to run consecutive to each other and to any other previously imposed sentence. This no-merit appeal follows.

First, we see no arguable basis for plea withdrawal. In order to withdraw a plea after sentencing, a defendant either must show that the plea colloquy was defective in a manner that resulted in the defendant actually entering an unknowing plea, or demonstrate some other

manifest injustice such as coercion, the lack of a factual basis to support the charge, ineffective assistance of counsel, or failure by the prosecutor to fulfill the plea agreement. *State v. Bangert*, 131 Wis. 2d 246, 272-76, 389 N.W.2d 12 (1986); *State v. Krieger*, 163 Wis. 2d 241, 249-51 & n.6, 471 N.W.2d 599 (Ct. App. 1991). There is no indication of any such defect here.

Garrett entered guilty pleas to fleeing and eluding and second-degree reckless endangerment. The circuit court conducted a standard plea colloquy, inquiring into Garrett's ability to understand the proceedings and the voluntariness of his plea decision, and further exploring his understanding of the nature of the charge, the penalty range and other direct consequences of the plea, and the constitutional rights being waived. See *State v. Hoppe*, 2009 WI 41, ¶18, 317 Wis. 2d 161, 765 N.W.2d 794; and *Bangert*, 131 Wis. 2d at 266-72. The court made sure Garrett understood that it would not be bound by any sentencing recommendations. In addition, Garrett provided the court with a signed plea questionnaire. Garrett indicated to the court that he had indeed signed the form and understood the information explained on that form, and he is not now claiming otherwise. See *State v. Moederndorfer*, 141 Wis. 2d 823, 827-28, 416 N.W.2d 627 (Ct. App. 1987).

Garrett's counsel stated on the record that there was a factual basis for the plea, and there is nothing in the record or the no-merit report that leads us to conclude otherwise. In addition, Garrett indicated satisfaction with his attorney. Nothing in our independent review of the record would support a claim that trial counsel rendered ineffective assistance. Garrett has not alleged any other facts that would give rise to a manifest injustice. Therefore, the plea was valid and

operated to waive all nonjurisdictional defects and defenses, aside from any suppression ruling.² *State v. Kelty*, 2006 WI 101, ¶18, 294 Wis. 2d 62, 716 N.W.2d 886.

There also is no arguable merit to a claim that the circuit court improperly exercised its sentencing discretion. In imposing sentence, the court considered the seriousness of the offenses, Garrett's character, and the need to protect the public. *See State v. Gallion*, 2004 WI 42, ¶¶27, 40-44, 270 Wis. 2d 535, 678 N.W.2d 197. Garrett had the opportunity, through his counsel, to comment on the presentence investigation report. He also had the opportunity to address the court directly, and did so prior to the court's imposition of sentence.

The circuit court imposed a sentence of seven years of initial confinement and five years of extended supervision, although three years and two years, respectively, were stayed pending the successful completion of probation. Garrett faced a total possible sentence of fourteen and one-half years of initial confinement and seven years of extended supervision. *See* WIS. STAT. §§ 346.17(3)(a) (classifying fleeing and eluding as a Class H felony); 973.01(2)(b)8., (c), & (d)5. (providing maximum terms for a Class H felony plus repeater enhancers); 941.30(2) (classifying second-degree reckless endangerment as a Class G felony); 973.01(2)(b)7., (c), & (d)4. (providing maximum terms for a Class G felony plus repeater enhancers). Under the circumstances, it cannot reasonably be argued that Garrett's sentence is so excessive as to shock public sentiment. *See Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975).

² Our review of the record and the no-merit report does not indicate that any suppression motions were filed in this case.

Upon our independent review of the record, we have found no other arguable basis for reversing the judgment of conviction. *See State v. Allen*, 2010 WI 89, ¶¶81-82, 328 Wis. 2d 1, 786 N.W.2d 124. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

Accordingly,

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 Devion Demarco Garrett 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