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**DISTRICT II**

November 1, 2023

To:

Hon. Timothy D. Boyle  
Circuit Court Judge  
Electronic Notice

Amy Vanderhoef  
Clerk of Circuit Court  
Racine County Courthouse  
Electronic Notice

Scott A. Szabrowicz  
Electronic Notice

Jennifer L. Vandermeuse  
Electronic Notice

Tyler J. Lynch #597043  
Redgranite Correctional Inst.  
P.O. Box 925  
Redgranite, WI 54970-0925

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

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2022AP1176-CRNM      State of Wisconsin v. Tyler J. Lynch (L.C. # 2021CF166)

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).**

Tyler J. Lynch appeals from a judgment of conviction and an order denying his postconviction motion. His appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2021-22)<sup>1</sup> and *Anders v. California*, 386 U.S. 738 (1967). Lynch filed a response. After reviewing the record, counsel's report, and Lynch's response, we conclude there are no

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

issues with arguable merit for appeal. Therefore, we summarily affirm the judgment and order. *See* WIS. STAT. RULE 809.21.

Lynch was convicted following pleas to multiple offenses. He pled to delivering THC (200 grams or less), possession with intent to deliver THC (more than 2,500 grams but not more than 10,000 grams) near a park, and possession with intent to deliver narcotics near a park—all as a repeater and a second or subsequent offense. He also pled to three counts of felony bail jumping as a repeater. The charges stemmed from multiple controlled buys and a search of residences associated with the seller, who was Lynch. Numerous additional drug and bail jumping charges were dismissed and read-in. For his actions, the circuit court imposed an aggregate sentence of seven years of initial confinement and eight years of extended supervision.

After sentencing, Lynch filed a *pro se* postconviction motion for sentence modification. In it, he alleged the existence of new factors, which were (1) the dismissal of a pending out-of-state criminal case against him; and (2) the department of corrections' failure to make him eligible for treatment through the substance abuse program (SAP). The circuit court summarily denied the motion in a written order. The court noted that the out-of-state criminal case was "immaterial" to its sentence. It further noted that it had wanted Lynch "to sit a period [of] time before he participated in ... SAP programming since participation in such [a] program[] would potentially reduce his confinement time and provide for an early release."<sup>2</sup> The court explained, "Mr. Lynch fails to appreciate that the sentence also is punitive and not just to be rehabilitative." This no-merit appeal follows.

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<sup>2</sup> The circuit court's sentencing remarks reflect this. There, it stated, "I will also find you eligible for the substance abuse program provided you have served at least one half of your sentence."

The no-merit report addresses whether the circuit court properly accepted Lynch's pleas and whether there is any arguable merit to a claim challenging the court's sentencing decision. This court is satisfied that the no-merit report correctly analyzes the issues it raises as without merit, and we will not discuss them further.<sup>3</sup>

As noted, Lynch filed a response to the no-merit report. In it, he renews the arguments made in his postconviction motion. We are not persuaded that the circuit court erred in denying Lynch's motion. The court's order effectively explains why Lynch's alleged new factors were either not "highly relevant to the imposition of sentence" or did not warrant sentence modification. See *State v. Harbor*, 2011 WI 28, ¶¶37, 40, 333 Wis. 2d 53, 797 N.W.2d 828 (citation omitted). Thus, we cannot conclude that Lynch's response presents an issue of arguable merit.

Our review of the record discloses no other potential issues for appeal.<sup>4</sup> Accordingly, this court accepts the no-merit report, affirms the judgment and order, and discharges appellate counsel of the obligation to represent Lynch further in this appeal.

Upon the foregoing reasons,

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<sup>3</sup> There is one exception to this. During the plea colloquy, the circuit court failed to provide the deportation warning required by WIS. STAT. § 971.08(1)(c). This failure does not present a potentially meritorious issue for appeal, as there is no indication that Lynch's pleas are likely to result in his deportation, exclusion from admission to this country, or denial of naturalization.

<sup>4</sup> Lynch's pleas forfeited the right to raise other nonjurisdictional defects and defenses, including claimed violations of constitutional rights. See *State v. Kelty*, 2006 WI 101, ¶18 & n. 11, 294 Wis. 2d 62, 716 N.W.2d 886; see also *State v. Lasky*, 2002 WI App 126, ¶11, 254 Wis. 2d 789, 646 N.W.2d 53.

IT IS ORDERED that the judgment and order of the circuit court are summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Scott A. Szabrowicz is relieved of further representation of Tyler J. Lynch in this appeal. *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*