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DISTRICT III

October 31, 2023

To:

Hon. John P. Anderson
Circuit Court Judge
Electronic Notice

Jennifer L. Vandermeuse
Electronic Notice

Marge Kelsey
Clerk of Circuit Court
Sawyer County Courthouse
Electronic Notice

Jonathan Ray Kakazu 547057
Jackson Correctional Inst.
P.O. Box 233
Black River Falls, WI 54615-0233

James A. Rebholz
Electronic Notice

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

2021AP2072-CRNM State of Wisconsin v. Jonathan Ray Kakazu
(L. C. No. 2019CF327)

Before Stark, P.J., Hruz 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).

Before Stark, P.J., Hruz and Gill, JJ.

Jonathan Kakazu appeals from a judgment convicting him of first-degree reckless homicide by the delivery of drugs. Attorney James A. Rebholz has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2021-22).¹ Kakazu was informed of his right to respond to the no-merit report, but he has not filed a response. Having

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

independently reviewed the entire record as mandated by *Anders v. California*, 386 U.S. 738, 744 (1967), we conclude that there are no arguably meritorious issues for appeal.

The complaint alleged that Kakazu sold fentanyl-laced heroin to a woman who then died from an overdose. Kakazu agreed to plead guilty to the reckless homicide charge in exchange for a joint sentence recommendation of twelve years' initial confinement followed by twelve years' extended supervision and an agreement to dismiss and read in drug charges in two other cases. The circuit court accepted Kakazu's plea after conducting a plea colloquy by videoconference, reviewing Kakazu's signed plea questionnaire, and ascertaining that there was a factual basis to support the plea.

The circuit court ordered a presentence investigation report and subsequently held a sentencing hearing. After hearing from the parties and family members of the victim, the court discussed factors related to the severity of the offense and Kakazu's character and criminal history and explained how those factors related to sentencing goals such as punishment, protection of the public, and deterrence. The court then sentenced Kakazu to fifteen years' initial confinement followed by fifteen years' extended supervision, with 456 days of sentence credit. It also awarded \$8,761.75 in restitution and imposed uncontested fees and surcharges. The court noted that the only reason it did not impose the maximum penalty was because Kakazu had taken responsibility by entering a plea.

The no-merit report addresses the sufficiency of the complaint and the validity of the plea and sentence. Upon reviewing the record, we agree with counsel's conclusion that Kakazu has no arguably meritorious basis to challenge either the plea or the sentence. We further note that Kakazu's plea forfeited the right to raise other nonjurisdictional defects and defenses (with some

exceptions not relevant here), including any challenge to the sufficiency of the complaint. *See State v. Kelty*, 2006 WI 101, ¶¶18 & n.11, 34, 294 Wis. 2d 62, 716 N.W.2d 886.

In addition to the issues discussed by counsel, we note that Kakazu agreed to have the judge appear by videoconference at the plea hearing in order to avoid delays caused by COVID restrictions which were then in effect. *See State v. Soto*, 2012 WI 93, ¶46, 343 Wis. 2d 43, 817 N.W.2d 848. Accordingly, the judge's appearance by videoconference does not provide an arguably meritorious basis to challenge Kakazu's conviction.

Our independent review of the record discloses no other potential issues for appeal. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders*. Accordingly, counsel shall be allowed to withdraw, and the judgment of conviction will be summarily affirmed. *See* WIS. STAT. RULE 809.21.

Upon the foregoing,

IT IS ORDERED that the judgment of conviction is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney James A. Rebholz is relieved of any further representation of Jonathan Kakazu in this matter pursuant to 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