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DISTRICT III

December 5, 2023

To:

Hon. John B. Rhode
Circuit Court Judge
Electronic Notice

Ellen J. Krahn
Electronic Notice

Marilyn Baraniak
Clerk of Circuit Court
Langlade County Courthouse
Electronic Notice

Jennifer L. Vandermeuse
Electronic Notice

Jeffrey A. Buck
714 Harrison Street
Green Bay, WI 54303

Tristan Breedlove
Electronic Notice

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

2022AP649-CRNM State of Wisconsin v. Jeffrey A. Buck (L. C. No. 2020CF133)

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).

Counsel for Jeffrey Buck filed a no-merit report concluding that no grounds exist to challenge Buck's convictions for possession with intent to deliver three grams or less of methamphetamine, as a second or subsequent offense; maintaining a drug trafficking place, as a second or subsequent offense; possession of methamphetamine with the intent to distribute near a jail; encouraging a violation of probation; misdemeanor battery; and fourth-degree sexual assault. Buck was informed of his right to file a response to the no-merit report, and he has not responded. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude there is no arguable merit to any issue that could be raised on

appeal. Therefore, we summarily affirm the judgment of conviction. *See* WIS. STAT. RULE 809.21 (2021-22).¹

The State filed a thirteen-count criminal complaint, charging Buck with possession with intent to deliver three grams or less of methamphetamine, as a second and subsequent offense; maintaining a drug trafficking place, as a second and subsequent offense; possession of methamphetamine with the intent to distribute near a jail; possession of tetrahydrocannabinols (THC), as a second and subsequent offense; possession of drug paraphernalia; delivering illegal articles to an inmate; obstructing an officer; encouraging a violation of probation; obstructing an agency; misdemeanor battery; third-degree sexual assault; and two counts of disorderly conduct. According to the criminal complaint, law enforcement responded to a report that a missing woman was possibly with Buck at a residence in the Town of Langlade. Officers heard a female's voice inside the residence, and entered the home in an attempt to locate the woman. Officers found the missing woman and Buck inside the home. While inside the home, officers saw drug paraphernalia in plain view, and they observed Buck exhibiting behavior consistent with an individual who was under the influence of a controlled substance.

Officers arrested Buck, and during a search of his person, Buck put a "gem bag" in his mouth, in an apparent attempt to swallow it. An officer retrieved the gem bag and observed that it contained a white, crystalline substance consistent with methamphetamine. A similar substance was also found on a folded piece of paper located in Buck's pants pocket. The substances tested positive for methamphetamine.

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

The woman found with Buck told police that Buck provided her with methamphetamine. She further alleged that a few days earlier, Buck punched her in the head, ripped out her hair, and beat her up. The woman also alleged that two weeks prior to that incident, Buck beat her up, dragged her by her hair, and forced his penis into her mouth without her consent. The woman acknowledged that she was on probation and had a specific rule prohibiting her from having contact with Buck. She also stated that when officers had previously looked for her at the same residence, she was there, although Buck told the officers that he last saw her at her sister's home. The complaint also alleged that Buck had prior convictions for the manufacture or delivery of both THC and cocaine, possession with intent to deliver narcotic drugs, and possession of narcotic drugs.

Buck filed a pretrial motion to suppress evidence.² Instead of proceeding with a scheduled suppression motion hearing, Buck entered into a plea agreement.³ Buck agreed to enter no-contest pleas to possession with intent to deliver three grams or less of methamphetamine, as a second or subsequent offense; maintaining a drug trafficking place, as a second or subsequent offense; possession of methamphetamine with the intent to distribute near a jail; encouraging a violation of probation; misdemeanor battery; and an amended charge of

² The suppression motion asserted that the evidence was discovered pursuant to an "Act 79" search. *See* 2013 Wis. Act 79 (The Act specifies that a law enforcement officer may require certain persons under field supervision to submit to a search of the person, the person's residence, or of any property under the person's control, if the officer reasonably suspects that the person is committing, is about to commit, or has committed a crime or a violation of a condition of the field supervision.). The motion claimed that it was unclear whether the search satisfied the specific parameters of an Act 79 search.

³ WISCONSIN STAT. § 971.31(10) provides that an order denying a motion to suppress evidence may be reviewed upon appeal from a final judgment or order notwithstanding the fact that the judgment or order was entered upon a plea of guilty or no contest. Because Buck's suppression motion was never decided, the statute is inapplicable, and we need not address any claim arising from the motion.

fourth-degree sexual assault. In exchange for his no-contest pleas, the State agreed to recommend that the circuit court dismiss and read in the remaining counts.⁴

The State also agreed that it would join in defense counsel's sentence recommendation. With respect to the possession with intent to deliver count, the parties recommended that the circuit court impose and stay an eight-year term of incarceration consisting of four years of initial confinement followed by four years of extended supervision, to run consecutively to any other sentence Buck was then serving, and to place Buck on probation for four years. For maintaining a drug trafficking place and possessing methamphetamine with the intent to distribute near a jail, the parties recommended that the court withhold sentence and place Buck on probation for four years, concurrent to any other supervision. For encouraging a violation of probation, the parties recommended that the court impose and stay a nine-month jail term, consecutive to any other sentence, and place Buck on probation for a period of one year, concurrent to any other supervision. With respect to his conviction for fourth-degree sexual assault, the parties recommended nine months in jail. Finally, with respect to the misdemeanor battery count, the parties recommended forty-five days of time served in jail. Out of maximum possible sentences totaling thirty-four years and nine months, the court imposed sentences consistent with the joint recommendation.

The no-merit report addresses whether Buck knowingly, intelligently, and voluntarily entered his no-contest pleas and whether the circuit court properly exercised its sentencing discretion. Upon reviewing the record, we agree with counsel's description, analysis, and

⁴ The agreement also called for Buck to plead guilty or no contest to a traffic offense, with the State moving to dismiss any remaining traffic citations.

conclusion that there is no arguable merit to these issues. The no-merit report sets forth an adequate discussion of the potential issues to support the no-merit conclusion, and we need not address them further. Additionally, with some exceptions not relevant here, Buck's valid no-contest pleas waived all nonjurisdictional defects and defenses. *See State v. Kelty*, 2006 WI 101, ¶¶18 & n.11, 34, 294 Wis. 2d 62, 716 N.W.2d 886.

Our independent review of the record discloses no other potential issue for appeal.

Therefore,

IT IS ORDERED that the judgment is summarily affirmed. WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorneys Ellen J. Krahn and Tristan Breedlove are relieved of their obligations to further represent Jeffrey Buck 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