

summarily affirm the judgment of conviction and the order denying postconviction relief. *See* WIS. STAT. RULE 809.21 (2021-22).¹

The State charged Maravilla with first-degree reckless homicide and repeated acts of physical abuse of a child, causing death, both as a party to a crime. The charges arose from the death of one-year-old Clara, the daughter of Maravilla's then-girlfriend, Sandy.²

According to the criminal complaint, Maravilla and Sandy brought the already-deceased Clara to the emergency room with her body covered in bruises of varying sizes and colors. The autopsy report indicated that Clara died as a result of blunt force injuries to her head and torso, which resulted in perforation of her bowel, leakage of intestinal contents and flora into her abdominal cavity, sepsis, shock, cerebral edema, and multi-organ failure. The medical examiner noted that Clara had multiple injuries in various stages of healing, including multiple circular patterns of bruising and abrasion consistent with bite marks or use of a circular object, multiple acute and subacute punctures on the sole of the foot, and fractures of the bilateral upper extremities and ribs. The medical examiner explained that her findings indicated delayed presentation for medical attention and were consistent with non-accidental trauma. The medical examiner also concluded that Clara's small body size, plus the absence of food in Clara's stomach and bowel, and her near-depleted fat reserves, indicated inadequate nutrition. She also opined that the presence of multiple viral and bacterial infections of the lungs and ears, with no apparent evidence of medical treatment, was consistent with neglect.

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

² Although not required by WIS. STAT. RULE 809.86, we refer to the child homicide victim and her mother in this case using pseudonyms.

Maravilla and Sandy initially reported that Clara had fallen down the stairs. Both denied intentionally harming Clara or seeing the other do so. However, both Maravilla and Sandy subsequently made statements implicating the other in harming Clara. Sandy told police that she noticed new bruises on Clara after she started leaving Clara in Maravilla's care. She also stated that, in the week prior to Clara's death, Clara started to be hesitant to go to Maravilla when he called her. Maravilla told police that he had seen Sandy "toss" Clara on the bed, "grab [Clara] hard and yank her," and hit Clara with a plastic toy. Maravilla also admitted that he "accidentally" caused Clara to fall down the stairs on one occasion and "accidentally" hit her in the face on another occasion. Additionally, a confidential informant (C.I.) told police that while the C.I. was in jail with Maravilla, Maravilla made statements to the C.I. that Maravilla had kicked Clara in the head while walking through the house and had picked Clara up and dropped her on the floor.

Pursuant to a plea agreement, Maravilla pled no contest to first-degree reckless homicide as a party to a crime and the remaining charge—repeated acts of physical abuse of a child, causing death as a party to a crime—was dismissed and read in for sentencing purposes. In exchange for Maravilla's no-contest plea to the first-degree reckless homicide charge, the State agreed to cap its sentence recommendation at eighteen years' initial confinement followed by twenty years' extended supervision. The State made that recommendation at the sentencing hearing, and Maravilla argued for a sentence of ten to twelve years' initial confinement. The circuit court imposed twenty-four years' initial confinement followed by twelve years' extended supervision. The court granted Maravilla 1,029 days of sentence credit.

First, the no-merit report concludes that any challenge to Maravilla's no-contest plea would lack arguable merit. The circuit court's plea colloquy, as supplemented by a

comprehensive plea questionnaire and waiver of rights form that Maravilla completed, informed Maravilla of the elements of the offense, the penalties that could be imposed, and the constitutional rights he waived by entering his plea. The court confirmed Maravilla's understanding that it was not bound by the terms of the plea agreement, *see State v. Hampton*, 2004 WI 107, ¶2, 274 Wis. 2d 379, 683 N.W.2d 14, and found that a sufficient factual basis existed in the criminal complaint to support the plea. The court also advised Maravilla of the deportation consequences of his plea as mandated by WIS. STAT. § 971.08(1)(c). Having reviewed the record and the no-merit report, we conclude that there would be no arguable merit to a claim that Maravilla's plea was not knowingly, voluntarily, and intelligently made. *See State v. Bangert*, 131 Wis. 2d 246, 257, 389 N.W.2d 12 (1986). A valid no-contest or guilty plea constitutes a waiver of all nonjurisdictional defects and defenses. *See State v. Kazez*, 192 Wis. 2d 213, 219, 531 N.W.2d 332 (Ct. App. 1995).

Next, the no-merit report concludes that there would be no arguable merit to a challenge based on the sentence imposed by the circuit court. Before imposing a sentence authorized by law, the court considered the seriousness of the offense, Maravilla's character and criminal history, and the need to protect the public and for deterrence and punishment. *See State v. Gallion*, 2004 WI 42, ¶¶39-46, 270 Wis. 2d 535, 678 N.W.2d 197. It cannot reasonably be argued that Maravilla'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). We agree with counsel's assessment that a challenge to the sentence imposed would be wholly frivolous.

Finally, the no-merit report addresses whether there would be arguable merit to a challenge to the circuit court's decision denying Maravilla's postconviction motion for a new sentencing hearing. Maravilla moved for resentencing on grounds that the court improperly

relied on Maravilla's COMPAS³ risk assessment scores to determine the length of Maravilla's sentence, contrary to *State v. Loomis*, 2016 WI 68, 371 Wis. 2d 235, 881 N.W.2d 749.

Under *Loomis*, the COMPAS report “may not be used: (1) to determine whether an offender is incarcerated; or (2) to determine the severity of the sentence. Additionally, risk scores may not be used as the determinative factor in deciding whether an offender can be supervised safely and effectively in the community.” *Id.*, ¶98. However, a sentencing court may use a COMPAS risk assessment to “enhance [the] ... evaluation, weighing, and application of the other sentencing evidence in the formulation of an individualized sentencing program appropriate” for a defendant. *Id.*, ¶92 (citation omitted).

Here, at sentencing, the circuit court commented as follows on the COMPAS report:

The criminal personality score on the risk assessment would tend to indicate[] that Juan struggles with impulsivity, having no guilt, being selfish and engaging in risk-taking behavior and having a violent temper and being abusive. Well, that's going to put other people at risk or at least other children that he's not happy with at risk, and that also then, therefore, is a heightened *Gallion* factor, protecting the public.

However, the circuit court also explained at length its independent reasons for imposing twenty-four years of initial confinement: (1) the court considered Maravilla's character, including his prior criminal convictions for sexual assault and escape, and his conduct toward the child victim in this case; (2) the court detailed the injuries to Clara and then explained that the severity of the crime was “at the top of the list”; (3) the court considered the need to protect the public, including other children; and, finally, (4) the court considered the need for both

³ COMPAS stands for Correctional Offender Management Profiling for Alternative Sanctions.

deterrence and punishment. The court summarized why it determined that twenty-four years' initial confinement was warranted: "In the [c]ourt's mind and taking all of these *Gallion* factors and knowing what I do know about the case and the parties involved[,] I believe that's an appropriate sentence."

We conclude that there would be no arguable merit to a challenge to the circuit court's decision denying the motion for resentencing. The court commented on the COMPAS report only briefly at sentencing, and its comments implied that the report was one of many factors it was considering. See *Loomis*, 371 Wis. 2d 235, ¶99. Moreover, the court explained in its decision denying the motion for resentencing that it reached its sentencing determination without relying on the COMPAS report. The court considered the COMPAS scores only to enhance its evaluation of the sentencing evidence as it related to community protection, as expressly permitted under *Loomis*.

Upon an independent review of the record, no other arguable basis for reversing the judgment of conviction or order denying postconviction relief has been found. Therefore, any further appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

Therefore,

IT IS ORDERED that the judgment of conviction and the order denying the postconviction motion are summarily affirmed. See WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Timothy O'Connell is relieved of any further representation of Juan Javier Maravilla in this matter.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Samuel A. Christensen
Clerk of Court of Appeals