



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT III

December 28, 2023

To:

Hon. Marc A. Hammer
Circuit Court Judge
Electronic Notice

John VanderLeest
Clerk of Circuit Court
Brown County Courthouse
Electronic Notice

Timothy T. O'Connell
Electronic Notice

Jennifer L. Vandermeuse
Electronic Notice

Gavin Michael Rock 704423
Fox Lake Correctional Inst.
P.O. Box 200
Fox Lake, WI 53933-0200

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

2022AP1640-CRNM State of Wisconsin v. Gavin Michael Rock
(L. C. No. 2019CF300)

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).

Gavin Rock appeals from a judgment convicting him of conspiracy to commit armed robbery and second-degree reckless homicide, the latter as a party to a crime. Attorney Timothy O'Connell has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2021-22).¹ Rock was informed of his right to respond to the no-merit report, but he has not filed a response. Having independently reviewed the entire record as mandated by

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

Anders v. California, 386 U.S. 738, 744 (1967), we conclude that there are no arguably meritorious issues for appeal.

The charges were based upon the statements of multiple witnesses that Rock was present in a car with the victim and three other men when one of the other men shot the victim. The shooter alleged that Rock had set up the victim to be robbed by asking to purchase THC cartridges from him, and Rock eventually confessed to his part in the plan. Rock agreed to plea no contest to the armed robbery and reckless homicide counts in exchange for the dismissal as read-in offenses of additional counts of obstructing an officer and bail jumping, as well as the State's agreement to cap its sentencing recommendation at twenty years' initial confinement followed by ten years' extended supervision. The circuit court accepted Rock's pleas after conducting a plea colloquy, reviewing Rock's signed plea questionnaire, and ascertaining that there was a factual basis to support the pleas.

The circuit court ordered a presentence investigation report and subsequently held a sentencing hearing. After hearing from the parties, the court discussed factors related to the severity of the offenses and Rock's character, and it explained how those factors related to the court's sentencing goals of protecting the public and not diminishing the seriousness of the offenses. The court then sentenced Rock to concurrent terms of twelve years' initial confinement followed by eight years' extended supervision on each of the two counts, with 979 days of sentence credit. The court also ordered Rock to pay the victim's mother \$12,083.39 in restitution.

The no-merit report addresses the validity of the pleas and sentences. Upon reviewing the record, we agree with counsel's conclusion that Rock has no arguably meritorious basis to

challenge either the pleas or sentences. In addition to the issues discussed by counsel, we note that Rock waived the right to personally appear at the plea hearing and instead appeared by videoconference. *See State v. Soto*, 2012 WI 93, ¶46, 343 Wis. 2d 43, 817 N.W.2d 848. We further note that Rock’s pleas forfeited the right to raise other nonjurisdictional defects and defenses (with some exceptions not relevant here). *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 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 Timothy O’Connell is relieved of any further representation of Gavin Rock 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