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**DISTRICT I**

January 3, 2024

To:

Hon. Audrey Skwierawski  
Circuit Court Judge  
Electronic Notice

Anna Hodges  
Clerk of Circuit Court  
Milwaukee County Safety Building  
Electronic Notice

Leonard D. Kachinsky  
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Jennifer L. Vandermeuse  
Electronic Notice

Andre Jenkins 334112  
Stanley Correctional Inst.  
100 Corrections Dr.  
Stanley, WI 54768

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

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2022AP2008-CRNM      State of Wisconsin v. Andre Jenkins (L.C. # 2020CF2432)

Before Donald, P.J., Geenen and Colón, 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).**

Andre Jenkins appeals from a judgment of conviction entered upon his guilty pleas to several crimes. Jenkins's appellate counsel, Leonard D. Kachinsky, has 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). Jenkins received a copy of the report, was advised of his right to file a response, but did not do so. We have independently reviewed the record and the no-merit report as mandated by *Anders*.

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

We conclude that there are no issues of arguable merit that could be pursued on appeal. We therefore summarily affirm.

On July 14, 2020, the State charged Jenkins with seventeen crimes: one count of knowingly violating a domestic abuse restraining order, three counts of misdemeanor bail jumping, six counts of first-degree recklessly endangering safety with the use of a dangerous weapon, one count of first-degree recklessly endangering safety, one count of possession of a firearm by a felon, two counts of knowingly violating a domestic abuse injunction, one count of battery by a person subject to a domestic abuse injunction, one count of disorderly conduct, and one count of stalking. Domestic abuse assessments attached to many of the charges. At the time the charges were issued, Jenkins had an open case pending in which he was charged with disorderly conduct. The State moved to join the two cases. The circuit court granted the motion.

The matter initially proceeded to trial before Jenkins pled guilty to multiple offenses. Prior to the start of trial, Jenkins moved to represent himself. The circuit court conducted a colloquy with Jenkins and allowed him to proceed *pro se*. The circuit court later appointed stand-by counsel, who represented Jenkins during his plea and sentencing hearings.

Ultimately, Jenkins pled guilty to three counts of knowingly violating a domestic abuse injunction (counts one, eleven, and fifteen); three counts of misdemeanor bail jumping (counts two, twelve, and sixteen); one count of battery by a person subject to a domestic abuse injunction (count thirteen); and one count of disorderly conduct (count fourteen). The remaining charges were dismissed and read in. The circuit court conducted a colloquy with Jenkins and accepted his guilty pleas. Jenkins signed a plea questionnaire/waiver of rights form. The circuit court imposed a global sentence of five years of initial confinement followed by two years of extended

supervision, with credit for time served. Following a restitution hearing, the circuit court also granted restitution in the amount of \$451.75 to the victim in the matter.

Appellate counsel's no-merit report addresses three issues: (1) whether the circuit court properly allowed Jenkins to represent himself; (2) whether the circuit court properly accepted Jenkins's guilty pleas; and (3) whether the circuit court erroneously exercised its sentencing discretion.

To establish a valid waiver of counsel, the circuit court must conduct a colloquy that ensures that the defendant: (1) has made a deliberate choice to proceed without counsel; (2) is aware of the difficulties and disadvantages of proceeding *pro se*; (3) is aware of the seriousness of the charge or charges; and (4) is aware of the range of penalties. *State v. Imani*, 2010 WI 66, ¶23, 326 Wis. 2d 179, 786 N.W.2d 40. Here, the circuit court conducted a colloquy with Jenkins that satisfied the court's obligations before accepting his waiver of the right to counsel. We therefore conclude that a challenge to Jenkins's waiver of his right to counsel would lack arguable merit.

With regard to Jenkins's guilty pleas, our review of the record—including the plea questionnaire/waiver of rights form, the addendum, and the plea hearing transcript—confirms that the circuit court complied with its obligations for taking guilty pleas, pursuant to WIS. STAT. § 971.08, *State v. Bangert*, 131 Wis. 2d 246, 261-62, 389 N.W.2d 12 (1986), and *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906. These obligations exist specifically to help ensure the validity of any plea. We thus agree with appellate counsel's conclusion in the no-merit report that there is no arguable merit to seeking plea withdrawal based on a claim that Jenkins's pleas were anything other than knowing, intelligent, and voluntary.

With regard to the circuit court's sentencing decision, we note that sentencing is a matter for the circuit court's discretion. *State v. Gallion*, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197.

At sentencing, a court must consider the principal objectives of sentencing, including the protection of the community, the punishment and rehabilitation of the defendant, and deterrence to others. *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. It must also determine which objective or objectives are of greatest importance. *Gallion*, 270 Wis. 2d 535, ¶41. In seeking to fulfill the sentencing objectives, the circuit court should consider several primary factors, including the gravity of the offense, the character of the offender, and the protection of the public, and it may consider additional factors. *State v. Odom*, 2006 WI App 145, ¶7, 294 Wis. 2d 844, 720 N.W.2d 695. The weight to be given to each factor is committed to the circuit court's discretion. *Id.*

Our review of the record confirms that the circuit court appropriately considered relevant sentencing objectives and factors. The resulting sentences were within the potential maximums authorized by law, *see State v. Scaccio*, 2000 WI App 265, ¶18, 240 Wis. 2d 95, 622 N.W.2d 449, and are not so excessive so as to shock the public's sentiment, *see Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). The circuit court also appropriately ordered restitution to the victim, explaining that restitution could be ordered on a read-in charge (as was done here) and giving Jenkins the opportunity to challenge any amounts he found inaccurate. *See State v. Sulla*, 2016 WI 46, ¶44, 369 Wis. 2d 225, 880 N.W.2d 659 (explaining the effect of read-in charges). Accordingly, any challenge to the circuit court's sentencing decision would lack arguable merit.

Our review of the record prompts us to address one issue not addressed by appellate counsel's no-merit report: the State's motion for joinder.

We conclude that any challenge to the circuit court's decision to grant the State's motion for joinder would lack arguable merit. WISCONSIN STAT. § 971.12(4) permits crimes in two or more complaints to be joined for trial if the charged crimes could have been joined in a single complaint. Subsection 971.12(1) permits two or more crimes to be charged in a single complaint when the crimes charged "are of the same or similar character or are based on the same act or transaction or on [two] or more acts or transactions connected together or constituting parts of a common scheme or plan." Whether joinder is proper is a question of law. *State v. Hoffman*, 106 Wis. 2d 185, 208, 316 N.W.2d 143 (Ct. App. 1982). Section 971.12 is to be broadly construed in favor of joinder, *Hoffman*, 106 Wis. 2d at 208, in order to promote efficient, economical judicial administration and to avoid multiple trials, *State v. Leach*, 124 Wis. 2d 648, 671, 370 N.W.2d 240 (1985) (citation omitted).

When Jenkins was charged with seventeen crimes on July 14, 2020, he had an open case pending. The case involved the same victim and was the basis for at least one of the misdemeanor bail jumping counts charged on July 14, 2020. In rendering its decision, the circuit court explained the overlap of evidence in both cases, the need for judicial economy, and the lack of prejudice to Jenkins. Any challenge to the circuit court's joinder decision would lack arguable merit.

Our independent review of the record reveals no other potential issues of arguable merit.

Upon the foregoing therefore,

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

IT IS FURTHER ORDERED that Attorney Leonard D. Kachinsky is relieved of further representation of Andre Jenkins in this matter. *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*