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DISTRICT III

April 2, 2024

To:

Hon. Tammy Jo Hock
Circuit Court Judge
Electronic Notice

John VanderLeest
Clerk of Circuit Court
Brown County Courthouse
Electronic Notice

Patricia A. FitzGerald
Electronic Notice

Jennifer L. Vandermeuse
Electronic Notice

Andrew William Krombholz 435427
Kettle Moraine Correctional Inst.
P.O. Box 282
Plymouth, WI 53073-0282

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

2023AP2284-CRNM State of Wisconsin v. Andrew William Krombholz
(L. C. No. 2021CF330)

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 Andrew Krombholz has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2021-22),¹ concluding that no grounds exist to challenge Krombholz's conviction for burglary of a building or dwelling, as a party to the crime and as a repeater. Krombholz was informed of his right to file a response to the no-merit report, but he has not responded. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967),

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

we conclude that 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.

The State charged Krombholz with one count of burglary of a building or dwelling and one count of felony criminal damage to property, both counts as a party to the crime and as a repeater. The complaint alleged that Krombholz and a codefendant broke into a business during the early morning hours of January 3, 2021, stole \$9,475, and caused \$34,925 in property damage.

Pursuant to a plea agreement, Krombholz entered a no-contest plea to the burglary charge. In exchange for Krombholz's plea, the State agreed to recommend that the criminal damage to property charge be dismissed and read in for purposes of sentencing. The State also agreed to recommend three years' initial confinement followed by three years' extended supervision, consecutive to any other sentence. Following a plea colloquy, supplemented by a signed plea questionnaire and waiver of rights form, the circuit court accepted Krombholz's no-contest plea, finding that it was freely, voluntarily, and intelligently made. The court also found that there was an adequate factual basis for Krombholz's plea.

The circuit court ordered a presentence investigation report, which recommended a sentence consisting of three to four years' initial confinement followed by three to four years' extended supervision. At sentencing, consistent with the plea agreement, the State recommended three years' initial confinement followed by three years' extended supervision, consecutive to any other sentence. The defense, in turn, recommended two years' initial confinement followed by five years' extended supervision, consecutive to a revocation sentence in another case.

During its sentencing remarks, the circuit court considered the seriousness of the offenses; Krombholz's character, including his criminal record and past revocations from supervision; Krombholz's substance abuse issues; the length of Krombholz's prior sentence for similar conduct; and the need to protect the public. The court then sentenced Krombholz to six years' initial confinement followed by five years' extended supervision, consecutive to any other sentence. The court determined, with Krombholz's attorney's agreement, that Krombholz was not entitled to any sentence credit because his sentence in the instant case was to be consecutive to an existing sentence. The court ordered that Krombholz would be eligible to participate in the Challenge Incarceration Program and the Substance Abuse Program after he had completed four years of the initial confinement portion of his sentence. The court also ordered Krombholz to pay \$18,957.49 in restitution, as requested by the State.

The no-merit report addresses whether any issues of arguable merit exist regarding: (1) the validity of Krombholz's no-contest plea; (2) the State's compliance with the plea agreement at sentencing; (3) the circuit court's exercise of its sentencing discretion; (4) the court's determination that Krombholz was not entitled to sentence credit; (5) the court's award of restitution; (6) the court's understanding at sentencing that Krombholz's sentence of five years' initial confinement followed by five years' extended supervision in a prior case was imposed following the revocation of his probation in that case; and (7) Krombholz's appearances at various hearings by phone and videoconference. We agree with counsel's description, analysis, and conclusion that these potential issues lack arguable merit, and we therefore do not address them further.

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

Therefore,

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

IT IS FURTHER ORDERED that Attorney Patricia A. FitzGerald is relieved of further representation of Andrew Kromholz 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