



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 IV/II

September 3, 2014

To:

Hon. Elliott M. Levine
Circuit Court Judge
La Crosse County Courthouse
333 Vine Street
La Crosse, WI 54601

Pamela Radtke
Clerk of Circuit Court
La Crosse County Courthouse
333 Vine Street, Room 1200
La Crosse, WI 54601

Emily E. Hynek
Asst. District Attorney
333 Vine Street, Rm. 1100
La Crosse, WI 54601

Michelle L. Velasquez
Asst. State Public Defender
P.O. Box 7862
Madison, WI 53707-7862

Gregory M. Weber
Assistant Attorney General
P.O. Box 7857
Madison, WI 53707-7857

Randy L. Bolstad
1208 5th Ave. S.
La Crosse, WI 54601

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

2013AP2531-CRNM	State of Wisconsin v. Randy L. Bolstad (L.C. #2012CM1136)
2014AP303-CRNM	State of Wisconsin v. Randy L. Bolstad (L.C. #2012CM1136)

Before Gundrum, J.¹

In these consolidated cases, Randy L. Bolstad appeals from an order for commitment and an order revoking conditional release. Bolstad's appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2011-12) and *Anders v. California*, 386 U.S. 738 (1967). Bolstad received a copy of the report, was advised of his right to file a response, and has elected

¹ This appeal is decided by one judge pursuant to Wis. Stat. § 752.31(2). All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

not to do so. After reviewing the record and counsel's report, we conclude that there are no issues with arguable merit for appeal. Therefore, we summarily affirm the orders. WIS. STAT. RULE 809.21.

In July 2012, Bolstad was charged with disorderly conduct, use of a dangerous weapon, as a repeater. Pursuant to a negotiated plea agreement, he asked the circuit court to make a finding that he was not guilty by reason of mental disease or defect (NGI) and to place him on a commitment with conditional release. The court made such a finding, based on a doctor's report, and ordered a sixteen-month commitment and conditional release.

The department of health services subsequently filed a petition for revocation of conditional release, alleging that Bolstad had engaged in conduct that violated the rules of conditional release. Following a hearing on the matter, the circuit court revoked the conditional release. These appeals follow.

The no-merit report addresses the following appellate issues: (1) whether Bolstad's NGI plea was knowingly, intelligently, and voluntarily entered; (2) whether the circuit court misused its discretion or otherwise erred when it ordered the sixteen-month commitment; and (3) whether the circuit court misused its discretion or otherwise erred when it revoked the conditional release.

With respect to the entry of the NGI plea, the record shows that the circuit court engaged in a colloquy with Bolstad that satisfied the applicable requirements of *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906.² In doing so, the court ensured that the plea was

² There is one exception to this. The circuit court failed to provide the deportation warning. This failure does not present a potentially meritorious issue for appeal, as counsel admits that she cannot allege that this is an issue in this case.

knowingly, intelligently, and voluntarily entered. We agree with counsel that any challenge to the entry of Bolstad's plea would lack arguable merit.

With respect to the order for commitment, the sixteen-month term imposed by the circuit court was within the lawful maximum. Moreover, because Bolstad did not object to the length of the term when it was recommended by the State, he is estopped from now arguing that the court erred in imposing it. *See State v. Magnuson*, 220 Wis. 2d 468, 471, 583 N.W.2d 843 (Ct. App. 1998). We agree with counsel that a challenge to the sixteen-month commitment would lack arguable merit.

Finally, with respect to the revocation of conditional release, the record fully supports the circuit court's decision. WISCONSIN STAT. § 971.17(3)(e) provides that the court may revoke conditional release if the State shows by clear and convincing evidence that a rule of conditional release has been violated. Here, the State presented evidence that Bolstad had engaged in certain behaviors (i.e., refusing medications, hitting himself in the face and head, etc.) which met this criteria. Accordingly, we agree with counsel that a challenge to the circuit court's revocation of conditional release would lack arguable merit.³

Our independent review of the record does not disclose any potentially meritorious issue for appeal. Because we conclude that there would be no arguable merit to any issue that could

³ Since filing his appeals, Bolstad has successfully obtained conditional release. Thus, any challenge to the revocation of his conditional release is also moot. *See State v. Barfell*, 2010 WI App 61, ¶9, 324 Wis. 2d 374, 782 N.W.2d 437 (issue is moot when “[n]othing we order can have a practical legal effect”).

be raised on appeal, we accept the no-merit report and relieve Attorney Michelle L. Velasquez of further representation in these matters.

Upon the foregoing reasons,

IT IS ORDERED that the orders of the circuit court are summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Michelle L. Velasquez is relieved of further representation of Bolstad in these matters.

Diane M. Fremgen
Clerk of Court of Appeals