



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](http://www.wicourts.gov)

**DISTRICT II**

December 27, 2017

To:

Hon. Daniel J. Borowski  
Circuit Court Judge  
615 N. 6th St.  
Sheboygan, WI 53081

Melody Lorge  
Clerk of Circuit Court  
Sheboygan County Courthouse  
615 N. 6th St.  
Sheboygan, WI 53081

Timothy T. O'Connell  
O'Connell Law Office  
403 S. Jefferson St.  
Green Bay, WI 54301

Joel Urmanski  
District Attorney  
615 N. 6th St.  
Sheboygan, WI 53081

Criminal Appeals Unit  
Department of Justice  
P.O. Box 7857  
Madison, WI 53707-7857

Michael M. Rivers, #444346  
Oshkosh Corr. Inst.  
P.O. Box 3310  
Oshkosh, WI 54903-3310

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

---

2017AP1628-CRNM      State of Wisconsin v. Michael M. Rivers (L.C. #2015CF710)

Before Reilly, P.J., Gundrum and Hagedorn, 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).**

Michael M. Rivers appeals from a judgment convicting him of child abuse—recklessly causing great bodily harm. Appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2015-16)<sup>1</sup> and *Anders v. California*, 386 U.S. 738 (1967). Rivers was advised of his right to file a response but has not done so. Upon consideration of the no-merit report and an

---

<sup>1</sup> All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

independent review of the record as mandated by *Anders* and RULE 809.32, we conclude there are no issues with arguable merit for appeal and therefore summarily affirm the judgment. *See* WIS. STAT. RULE 809.21.

Sheboygan Memorial Medical Center personnel called police to report suspected child abuse of ZJR, the four-month-old daughter of Rivers and his girlfriend, Katie. Rivers, a stay-at-home parent, had been caring for ZJR and his and Katie's two-year-old son while Katie was at work. Rivers told police he found ZJR unresponsive after leaving the children unattended for about five minutes, and surmised that the two-year-old dropped his baby sister while trying to pick her up. ZJR vomited at least twice before arriving at the medical center.

Upon her near-immediate transfer to Children's Hospital in Milwaukee, ZJR presented with bilateral retinal hemorrhages, spinal and diffuse subdural hemorrhaging, and bruising on all sides of her head. Dr. Angela Rabbitt, the child-abuse pediatrician who examined ZJR at Children's, termed the baby's injuries consistent with "a massive acceleration-deceleration to the head with a rotational component," often seen when a child is "violently slammed, shaken, and/or thrown," and likened the internal injuries to those that might have been sustained in a drop from a several-story building or a car accident while unrestrained.

Rivers was charged as a repeater with child abuse—recklessly causing great bodily harm (count 1) and possession of THC (count 2).<sup>2</sup> Rivers, who suffers from schizophrenia and

---

<sup>2</sup> When police interviewed Rivers at his home, they detected a "very strong smell of fresh marijuana." Rivers acknowledged smoking marijuana before ZJR was injured. Two of his three priors, all misdemeanors, carried domestic-abuse penalty enhancers.

bipolarity,<sup>3</sup> entered an NGI plea but withdrew it after a psychological evaluation could not support it. He pled no contest to count 1; count 2 was dismissed. The court sentenced him to six years' initial confinement and four years' extended supervision. After a postconviction motion, the result of which Rivers does not appeal, counsel filed this no-merit report.<sup>4</sup>

The no-merit report considers the potential issues of whether Rivers' plea was not knowingly and voluntarily entered and whether the sentence imposed evinces an erroneous exercise of discretion. We agree with counsel's analyses and conclusions that neither potential issue has any arguable merit. We therefore need discuss the issues no further.

A final point. We commend the circuit court for its exemplary plea colloquy and the care it took at sentencing in applying the law to these particular facts and ensuring that all of its questions were answered. Despite their enormous effect on a defendant's life and liberty, these proceedings too often become perfunctory. Here, however, the court recognized the repugnance of Rivers' crime yet still afforded him the careful explanations and basic respect all persons deserve. This court appreciates that thoroughness both for our review and for its role in our common quest for justice.

---

<sup>3</sup> The State learned from medical records that the drug Seroquel was detected in ZJR's blood. The lab results were not yet available to Dr. Rabbitt when she testified at the preliminary hearing. Dr. Rabbitt later told the prosecutor that, if given to an infant, Seroquel causes seizures, muscle rigidity, altered mental status, bleeding in the eyes, unconsciousness, fussiness, and vomiting. Rivers takes Seroquel for his mental issues. He denied giving ZJR the drug. The State did not amend the complaint to reflect the Seroquel evidence. ZJR continues to experience sequelae from her injuries, but the drug's causal impact on them is unknown.

<sup>4</sup> Rivers contended the court's initial order that he have no contact with Katie or the children was overly broad. The judgment was amended to forbid only "intentional unsupervised contact" with them unless first approved by Rivers' probation agent.

Our review of the record discloses no other potential issues for appeal. Rivers' guilty plea waived the right to raise nonjurisdictional defects and defenses arising from proceedings before entry of the plea, including claimed violations of constitutional rights. *State v. Kraemer*, 156 Wis. 2d 761, 765, 457 N.W.2d 562 (Ct. App. 1990). Accordingly, this court accepts the no-merit report, affirms the conviction, and discharges appellate counsel of the obligation to represent Rivers further in this appeal.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Timothy T. O'Connell is relieved from further representing Rivers in this appeal. *See* WIS. STAT. RULE 809.32(3).

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

---

*Diane M. Fremgen*  
*Clerk of Court of Appeals*