



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**

June 20, 2018

To:

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

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

Daniel Goggin II  
Goggin & Goggin  
P.O. Box 646  
Neenah, WI 54957-0646

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

Andrew C. Kunstman, #481088  
Fox Lake Corr. Inst.  
P.O. Box 200  
Fox Lake, WI 53933-0200

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

---

2018AP687-CRNM      State of Wisconsin v. Andrew C. Kunstman (L.C. #2017CF80)

Before Neubauer, C.J., Reilly, P.J., and Hagedorn, J.

**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).**

Andrew C. Kunstman appeals from a judgment convicting him of substantial battery as a repeater. Kunstman's appellate counsel 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). Kunstman received a copy of

---

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

the report, was advised of his right to file a response, and has elected 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 judgment. WIS. STAT. RULE 809.21.

Kunstman was convicted following a no contest plea to substantial battery as a repeater. The charge stemmed from an altercation in which Kunstman "body slammed" a woman, causing her to temporarily lose consciousness. The circuit court imposed a sentence of two years of initial confinement and two years of extended supervision. This no-merit appeal follows.

The no-merit report addresses whether Kunstman's no contest plea was properly entered. The record shows that the circuit court engaged in a colloquy with Kunstman that satisfied the applicable requirements of WIS. STAT. § 971.08(1) and *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906. In addition, a signed plea questionnaire and waiver of rights form was entered into the record, along with the relevant jury instructions detailing the elements of the offense. We agree with counsel that a challenge to the entry of Kunstman's no contest plea would lack arguable merit.

The no-merit report also addresses whether the circuit court properly exercised its discretion at sentencing. The records reveal that the court's sentencing decision had a "rational and explainable basis." *State v. Gallion*, 2004 WI 42, ¶76, 270 Wis. 2d 535, 678 N.W.2d 197 (citation omitted). In making its decision, the court considered the seriousness of the offense, Kunstman's character, and the need to protect the public. *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. Under the circumstances of the case, which were aggravated by Kunstman's prior record, the sentence imposed does not "shock public sentiment and violate the judgment of reasonable people concerning what is right and proper." *Ocanas v. State*, 70

Wis. 2d 179, 185, 233 N.W.2d 457 (1975). We agree with counsel that a challenge to Kunstman's sentence would lack arguable merit.

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 be raised on appeal, we accept the no-merit report and relieve Attorney Daniel R. Goggin, II, of further representation in this matter.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Daniel R. Goggin, II, is relieved of further representation of Kunstman in this matter.

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

---

*Sheila T. Reiff*  
*Clerk of Court of Appeals*