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 II

September 5, 2018

To:

Hon. Bruce E. Schroeder
Circuit Court Judge
Kenosha County Courthouse
912 56th St.
Kenosha, WI 53140

Rebecca Matoska-Mentink
Clerk of Circuit Court
Kenosha County Courthouse
912 56th St.
Kenosha, WI 53140

Michael D. Graveley
District Attorney
912 56th St.
Kenosha, WI 53140-3747

Jon Alfonso LaMendola
LaMendola Law Office
3900 W. Brown Deer Rd., #269
Brown Deer, WI 53209

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

Warren B. Crockrom Jr., #505461
Racine Corr. Inst.
P.O. Box 900
Sturtevant, WI 53177-0900

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

2017AP143-CRNM State of Wisconsin v. Warren B. Crockrom, Jr.
(L.C. #2016CM298)

Before Reilly, P.J.[1]

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).

Warren B. Crockrom, Jr., appeals from a judgment convicting him of (1) criminal damage to property as both a repeater and an act of domestic abuse; and (2) criminal trespass as a

[1] This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(f) (2015-16). All references to the Wisconsin Statutes are to the 2015-16 version.

repeater. Crockrom's appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 and ***Anders v. California***, 386 U.S. 738 (1967). Crockrom received a copy of 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.

Crockrom was convicted following guilty pleas to (1) criminal damage to property as both a repeater and an act of domestic abuse; and (2) criminal trespass as a repeater. The charges stemmed from allegations that Crockrom went to his ex-girlfriend's home, forced open her door, and directed his wife, who was with him, to assault the ex-girlfriend. The circuit court imposed an aggregate sentence of three years of initial confinement and one year of extended supervision. This no-merit appeal follows.

The no-merit report addresses whether Crockrom's guilty pleas were knowingly, voluntarily, and intelligently entered. The record shows that the circuit court engaged in a colloquy with Crockrom 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.[2] In addition, a signed plea questionnaire and waiver of rights form was entered into the record. The court referred to that form when discussing the rights Crockrom was giving up by entering his pleas. This was permissible under ***State v. Moederndorfer***, 141 Wis. 2d 823, 827-29, 416 N.W.2d 627 (Ct. App.

[2] There are a couple of exceptions to this. For example, the circuit court failed to provide the deportation warning required by WIS. STAT. § 971.08(1)(c). This failure does not present a potentially meritorious issue for appeal, as there is no indication that Crockrom's pleas are likely to result in his deportation, exclusion from admission to this country, or denial of naturalization. The court also did not ascertain a factual basis for the pleas. This omission does not present a potentially meritorious issue for appeal, as our review of the record persuades us that a factual basis existed.

1987). We agree with counsel that a challenge to the entry of Crockrom's guilty pleas would lack arguable merit.

The no-merit report also addresses whether the circuit court properly exercised its discretion at sentencing. The record reveals 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 offenses, Crockrom'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 Crockrom's criminal 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 Crockrom's sentence would lack arguable merit.

Finally, the no-merit report addresses several other issues, including (1) whether Crockrom is entitled to additional sentence credit; (2) whether new factors exist to support a motion for sentence modification; and (3) whether his trial counsel was ineffective. We are satisfied that the no-merit report properly analyzes these issues as without merit, and we will not discuss them further.

Our independent review of the record does not disclose any potentially meritorious issue for appeal.[3] 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 Jon Alfonso LaMendola 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 Jon Alfonso LaMendola is relieved of further representation of Crockrom in this matter.

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

Sheila T. Reiff
Clerk of Court of Appeals

[3] Two mandatory DNA surcharges were assessed on Crockrom's judgment of conviction. Because of the multiple DNA surcharges, we held this case in abeyance pending the Wisconsin Supreme Court's decision in ***State v. Odom***, No. 2015AP2525-CR, which was expected to address whether a defendant could withdraw a plea because the defendant was not advised at the time of the plea that multiple mandatory DNA surcharges would be assessed. The ***Odom*** appeal was voluntarily dismissed before oral argument. This case was then held for a decision in ***State v. Freiboth***, 2018 WI App 46, ___ Wis. 2d ___, ___ N.W.2d ___ (No. 2015AP2535). ***Freiboth*** holds that a plea hearing court does not have a duty to inform the defendant about the mandatory DNA surcharge because the surcharge is not punishment and is not a direct consequence of the plea. ***Id.***, 12. Consequently, there is no arguable merit to a claim for plea withdrawal based on the assessment of mandatory DNA surcharges.