



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

February 19, 2019

To:

Hon. Randy R. Koschnick
Circuit Court Judge
Jefferson County Courthouse
311 S. Center Ave.
Jefferson, WI 53549

Hon. Jennifer L. Weston
Circuit Court Judge
Jefferson County Courthouse
311 S. Center Ave.
Jefferson, WI 53549

Carla Robinson
Clerk of Circuit Court
Jefferson County Courthouse
311 S. Center Ave., Rm. 115
Jefferson, WI 53549

Suzanne L. Hagopian
Assistant State Public Defender
P.O. Box 7862
Madison, WI 53707

Susan V. Happ
District Attorney
311 S. Center Ave., Rm. 225
Jefferson, WI 53549-1718

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

Thomas W. Roesler 608854
McNaughton Corr. Center
8500 Rainbow Rd.
Lake Tomahawk, WI 54539-9558

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

2017AP2350-CRNM State of Wisconsin v. Thomas W. Roesler (L.C. #2016CF340)

Before Sherman, Blanchard and Fitzpatrick, 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).

Thomas Roesler appeals an amended judgment convicting him of a seventh offense of operating a motor vehicle under the influence of an intoxicant and an amended judgment that granted in part and denied in part his motion for postconviction relief. Attorney Suzanne Hagopian has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT.

RULE 809.32 (2017-18);¹ *Anders v. California*, 386 U.S. 738, 744 (1967). The no-merit report addresses the validity of Roesler’s plea and sentencing, including a fine. Roesler was sent a copy of the report, but has not filed a response. Upon reviewing the entire record, as well as the no-merit report, we conclude that there are no arguably meritorious appellate issues.

First, we see no arguable basis for plea withdrawal. The circuit court conducted a plea colloquy, inquiring into Roesler’s ability to understand the proceedings and the voluntariness of his plea, and further exploring his understanding of the nature of the charge, the penalty range and other direct consequences of the plea, and the constitutional rights being waived. In addition, Roesler provided the court with a signed plea questionnaire, with an attached sheet setting forth the elements of the offense. The facts set forth in the complaint—namely, that an officer pulled Roesler over for driving with a revoked license and observed indicia of intoxication, and that Roesler then failed sobriety tests—provided a sufficient factual basis for the plea. In conjunction with the plea questionnaire and complaint, the colloquy was sufficient to satisfy the court’s obligations under WIS. STAT. § 971.08. See *State v. Hoppe*, 2009 WI 41, ¶18, 317 Wis. 2d 161, 765 N.W.2d 794; *State v. Moederndorfer*, 141 Wis. 2d 823, 827-28, 416 N.W.2d 627 (Ct. App. 1987). We further note that there is nothing in the record to suggest that trial counsel’s performance was in any way deficient leading up to the plea, and Roesler has not alleged any other facts that would give rise to a manifest injustice.

A challenge to Roesler’s sentence would also lack arguable merit. The circuit court imposed a bifurcated prison sentence consisting of four years and six months of initial

¹ All references to the Wisconsin Statutes are to the 2017-18 version, unless otherwise noted.

confinement and three years of extended supervision, along with thirty-six months of license revocation and ignition interlock. The court initially imposed a fine of \$7,000, but reduced it to \$1,500 in an amended judgment based on Roesler's ability to pay. We agree with counsel's analysis in the no-merit report that the components of the sentence and fine did not exceed the maximum available penalties and that the record shows that the court adequately considered relevant sentencing factors and rationally explained their application to this case. *See generally State v. Gallion*, 2004 WI 42, ¶¶39-46, 270 Wis. 2d 535, 678 N.W.2d 197.

Upon an independent review of the record, we have found no other arguable basis for reversing the judgment of conviction. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

Accordingly,

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

IT IS FURTHER ORDERED that Attorney Suzanne Hagopian is relieved of any further representation of Roesler in this matter pursuant to WIS. STAT. RULE 809.32(3).

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

Sheila T. Reiff
Clerk of Court of Appeals