



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 III

May 27, 2020

To:

Hon. Michael K. Moran
Circuit Court Judge
500 Forest St.
Wausau, WI 54403

Theresa Wetzsteon
District Attorney
500 Forest Street
Wausau, WI 54403-5554

Shirley Lang
Clerk of Circuit Court
Marathon County Courthouse
500 Forest St.
Wausau, WI 54403

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

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

Jerry A. Schnabl 384409
Wisconsin Secure Program Facility
P.O. Box 1000
Boscobel, WI 53805-1000

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

2019AP83-CRNM State of Wisconsin v. Jerry A. Schnabl (L. C. No. 2015CF574)

Before Stark, P.J., Hruz and Seidl, 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).

Counsel for Jerry Schnabl has filed a no-merit report concluding there is no basis to challenge Schnabl's conviction for second-degree reckless homicide, as a repeater. Schnabl was advised of his right to respond and has not responded. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude there is no merit

to any issue that could be raised on appeal, and we summarily affirm. *See* WIS. STAT. RULE 809.21 (2017-18).¹

According to the criminal complaint, the victim was released from jail at approximately 5:00 p.m. on the date of the incident, and the victim had asked Schnabl to take him to cash some checks. Schnabl and the victim then began drinking throughout the evening, and eventually a physical fight ensued. Schnabl severely beat the victim, who subsequently died. Schnabl was initially charged with first-degree reckless injury and aggravated battery, both as repeaters. An Information charged a single count of second-degree reckless homicide, as a repeater.

Schnabl pleaded no contest to the charged offense, and an unrelated case was dismissed outright. The circuit court accepted Schnabl's plea after reviewing a signed plea questionnaire and waiver of rights form with attached jury instructions, and conducting an extensive plea colloquy. Schnabl acknowledged that a prior felony provided the basis for the repeater enhancer, and that a sufficient factual basis supported the conviction. The court established that Schnabl understood the constitutional rights he waived by pleading guilty, the nature of the offense, and the potential punishment. The court also informed Schnabl it was not bound by the parties' agreement and could impose the maximum allowable sentence, and advised Schnabl of the deportation consequences of his plea. The court then adopted a joint sentencing recommendation, imposing a sentence consisting of twelve years' initial confinement and ten years' extended supervision.

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

The no-merit report addresses potential issues regarding whether Schnabl’s plea was knowingly, intelligently, and voluntarily entered, and whether the court erroneously exercised its sentencing discretion. Upon our independent review of the record, we agree with counsel’s analysis, description, and conclusion that any challenge to these issues would lack arguable merit, and we shall not further address them. Our independent review of the record discloses no other issues for review.²

Therefore,

IT IS ORDERED that the judgment is summarily affirmed. WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that attorney Timothy O’Connell is relieved of further representing Jerry Schnabl in this matter.

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

Sheila T. Reiff
Clerk of Court of Appeals

² We note that the Wisconsin Department of Corrections sent correspondence to the circuit court requesting a review of the sentence credit granted. The correspondence stated the Department would “implement the terms of the sentence as ordered on the JOC until it receives a response from the court or an amended JOC.” Schnabl’s counsel subsequently advised the court that after reviewing the file, the court’s previous order was correct, and the court denied the request for review. The sentence credit granted was based upon the State’s representation at the sentencing hearing of credit due, and the State did not object to Schnabl’s counsel’s subsequent representation that the court’s order of sentence credit was correct. The State has forfeited any potential issue in that regard but, in any event, we conclude the sentence credit granted by the court was proper and any potential issue in that regard would lack arguable merit.