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April 13, 2021

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

2020AP783-CRNM	State of Wisconsin v. Maxqurn A. James (L.C. # 2016CF684)
2020AP784-CRNM	State of Wisconsin v. Maxqurn A. James (L.C. # 2017CF1269)

Before Brash, P.J., Donald and White, 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).

Maxqurn A. James appeals judgments convicting him of one count of operating a vehicle without the owner's consent, two counts of possession of heroin with intent to deliver, one of which was as a party to a crime, two counts of unlawfully possessing a firearm after being convicted of a felony, and one count of felony bail jumping. Appellate counsel, Attorney Carl W. Chesshir, filed a no-merit report pursuant to *Anders v. California*, 386 U.S. 738 (1967), and

WIS. STAT. RULE 809.32 (2019-20).¹ James filed a response. After considering the no-merit report and the response, and after conducting an independent review of the records as mandated by *Anders*, we conclude that no arguably meritorious issues exist for an appeal. Therefore, we summarily affirm. *See* WIS. STAT. RULE 809.21.

The no-merit report first addresses whether Smith could pursue an arguably meritorious claim for plea withdrawal on the ground that his guilty pleas were not knowing, intelligent, and voluntary. *See State v. Bangert*, 131 Wis. 2d 246, 260-62, 389 N.W.2d 12 (1986). The circuit court conducted a colloquy with James that complied with the circuit court’s obligations set forth in *Bangert* when accepting a guilty plea. *See id.*; *see also* WIS. STAT. § 971.08. The circuit court established that James had signed a guilty plea questionnaire and waiver of rights forms and that he understood their contents. *See State v. Pegeese*, 2019 WI 60, ¶¶36-37, 387 Wis. 2d 119, 928 N.W.2d 590. The records—including the plea questionnaire and waiver of rights forms, the attached documents describing the elements of the crimes to which James pled guilty, and the plea hearing transcript—demonstrate that James entered his guilty pleas knowingly, intelligently, and voluntarily. Accordingly, further pursuit of this issue would be frivolous within the meaning of *Anders*.

The no-merit report next address whether James could pursue an arguably meritorious challenge to the circuit court’s exercise of sentencing discretion. *See State v. Gallion*, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197. The circuit court sentenced James to a total of fifteen years of initial confinement and fifteen years of extended supervision for all of his crimes.

¹ All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

In framing James's sentence, the circuit court explained that it considered the seriousness of his crimes, the need to protect the public, and his character. The circuit court discussed factors that it viewed as relevant to achieving its sentencing goals. *See id.*, ¶¶41-43. The sentence that the circuit court selected was well within the limits of the maximum sentences allowed by law and cannot be considered unduly harsh or unconscionable. *See State v. Grindemann*, 2002 WI App 106, ¶¶31-32, 255 Wis. 2d 632, 648 N.W.2d 507. Therefore, further pursuit of this issue would be frivolous within the meaning of *Anders*.

In his response, James first contends that his trial counsel, Attorney Avery L. Goodrich, Jr., provided him with constitutionally ineffective assistance of counsel because Goodrich failed to communicate to him the prosecutor's plea offer to resolve both of the cases against him with a State recommendation of ten years initial confinement with ten years of extended supervision in exchange for a guilty plea. Counsel renders deficient performance by failing to communicate all plea offers to his or her client. *Missouri v. Frye*, 566 U.S. 134, 147 (2012).

Based on the documentation submitted by James to substantiate this claim, however, counsel did not fail to inform James of an offer to resolve *both of the cases* against him. Instead, the prosecutor stated in an email her offer to resolve *both of the charges* in one of James's cases by recommending ten years of initial confinement and ten years of extended supervision in exchange for a guilty plea. It appears that James misunderstood the email. Given the information before us, there would be no arguably meritorious issue based on counsel's alleged failure to communicate a plea offer to James.

James also argues in his response that Attorney Goodrich had a conflict of interest because James incurred more than \$5,500 in legal fees, but Attorney Goodrich received only \$900 from James at the beginning of the case. James reasons that Goodrich was working without being paid for most of the time that he represented James, and thus had an incentive to quickly resolve the case regardless of what was in James's best interests. This argument would lack merit if raised on appeal. There is no indication in the record that Attorney Goodrich did not act in James's best interest. Moreover, even if Attorney Goodrich has not yet been paid, there is no indication that Attorney Goodrich intended to provide his services for free and waive his right to payment.

Our independent review of the records does not disclose any other potential issues warranting discussion. We conclude that further appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

IT IS ORDERED that the judgments of the circuit court are summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Carl W. Chessir is relieved of any further representation of Maxqurn A. James. *See* 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