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June 2, 2021

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

2019AP1588-CRNM State of Wisconsin v. Edward J. Warrior, Jr. (L.C. # 2016CF2766)

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

Edward J. Warrior, Jr., pled guilty to second-degree intentional homicide by use of a dangerous weapon. He faced a maximum sentence of sixty-five years of imprisonment. *See* WIS. STAT. §§ 940.05(1)(b), 939.50(3)(b), 939.63(1)(b) (2015-16).[1] The circuit court imposed a

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

thirty-five-year term of imprisonment bifurcated as twenty years of initial confinement and fifteen years of extended supervision and ordered that Warrior serve the term consecutive to a previously imposed sentence for armed robbery. Following a restitution hearing, the circuit court ordered Warrior to pay funeral expenses of $4,500 to the Crime Victim Compensation Program. He appeals.

Warrior's appellate counsel, Attorney Angela Conrad Kachelski, filed a no-merit report pursuant to ***Anders v. California***, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32. Warrior filed a lengthy response, and Attorney Kachelski filed a supplemental no-merit report in reply. Upon consideration of the no-merit reports, Warrior's response, and an independent review of the record 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.

According to the criminal complaint, Warrior and his brother, Jerrell Watson, argued with London Street on June 15, 2016, in an open yard in the 1900 block of North 26th Street, in Milwaukee. An eyewitness to the argument, Franklin Martin, fled after Warrior fired a pistol in Martin's direction, and Martin then heard five more shots in rapid succession. A second eyewitness, D.D., said she saw Street struggling with Watson for control of Watson's pistol and that after Street grabbed the barrel of the pistol and fell to the ground, Warrior shot Street five times. A forensic pathologist conducted an autopsy and determined that Street had sustained seven gunshot wounds caused by five bullet paths, including two shots in the back and one shot in the back of the head. The pathologist concluded that Street died as a result of multiple gunshot wounds and ruled the death a homicide. The complaint went on to allege that in 2011, Warrior was convicted of armed robbery and the conviction had not been reversed. The State

charged Warrior with one count of first-degree intentional homicide as a party to a crime by use of a dangerous weapon and one count of possession of a firearm by a felon.

Warrior, by counsel, pled not guilty and requested a jury trial. In pretrial proceedings, Warrior filed, among other documents, a motion to suppress his custodial statements and a motion to admit evidence under ***McMorris v. State***, 58 Wis. 2d 144, 149-52, 205 N.W.2d 559 (1973) (setting forth the circumstances under which a defendant claiming self-defense in a homicide prosecution may offer proof of the victim's reputation and of the defendant's personal knowledge of the victim's prior relevant conduct). Before the circuit court could address the motions, however, Warrior decided to resolve the case with a plea agreement.

Pursuant to the terms of the plea agreement, the State filed an amended information charging Warrior with one count of second-degree intentional homicide by use of a dangerous weapon. *See* WIS. STAT. §§ 940.05, 939.63 (2015-16). A defendant is guilty of this offense if, by use of a dangerous weapon, the defendant caused the death of another person with the intent to kill and actually believed the force used was necessary to prevent imminent death or great bodily harm to the defendant, but the belief or the amount of force used was unreasonable. *See* WIS JI—CRIMINAL 990, 1017. Warrior agreed to plead guilty to the amended charge, and the State agreed to recommend a term of initial confinement no shorter than twenty years and to request a presentence investigation report (PSI). The circuit court accepted Warrior's guilty plea and ordered preparation of a PSI. The matter subsequently proceeded to sentencing.

We first consider whether Warrior could pursue an arguably meritorious claim for plea withdrawal on the ground that his guilty plea was not knowing, intelligent, and voluntary. *See* ***State v. Bangert***, 131 Wis. 2d 246, 257, 389 N.W.2d 12 (1986). At the outset of the plea

hearing, the circuit court established that Warrior had signed a plea questionnaire and waiver of rights form and addendum reflecting that he was twenty-five years old and had a high school equivalency degree. Warrior assured the circuit court that he had reviewed the form and addendum with his trial counsel and that he had no questions about anything in those documents. *See* ***State v. Hoppe***, 2009 WI 41, ¶32, 317 Wis. 2d 161, 765 N.W.2d 794 (providing that a completed plea questionnaire and waiver of rights form helps to ensure a knowing, intelligent, and voluntary plea). The circuit court then conducted a colloquy with Warrior that fully complied with the circuit court's obligations when accepting a guilty plea. *See* ***State v. Pegeese***, 2019 WI 60, ¶23, 387 Wis. 2d 119, 928 N.W.2d 590; *see also* WIS. STAT. § 971.08.

Warrior does not agree that the circuit court conducted an adequate plea colloquy. He asserts, first, that the colloquy was defective because the circuit court did not ask why he checked the box on the plea questionnaire reflecting that he was receiving treatment for a mental illness or disorder. The circuit court, however, is not required to conduct such an inquiry. *See* ***Pegeese***, 387 Wis. 2d 119, ¶23. The circuit court has an obligation to explore whether the defendant is competent to proceed when a reason exists for doubting the defendant's competency, but a mental health disorder alone does not render a defendant incompetent. *See* ***State v. Smith***, 2016 WI 23, ¶¶36-37, 367 Wis. 2d 483, 878 N.W.2d 135. Rather, the test for competency entails determining whether the defendant can understand the proceedings sufficiently to consult with counsel and assist in his or her defense. *See* ***id.***, ¶35. Competency proceedings are not required unless the circuit court receives evidence that gives rise to a reason to doubt the defendant's competency, and whether such evidence exists rests in the circuit court's discretion. *See* ***id.***, ¶43.

Nothing in the record suggests a reason to doubt Warrior's competency. Warrior communicated with the circuit court clearly and rationally in the courtroom and in several letters that he filed while pretrial proceedings were underway. Moreover, Warrior cooperated in the presentence investigation, and the PSI reflects that he told its author that he had "never been diagnosed with a mental health problem," although he was "suffering from 'some depression.'" Accordingly, we are satisfied that Warrior's affirmative answer on the plea questionnaire that he was receiving mental health treatment does not give rise to an arguably meritorious basis either to challenge his guilty plea or to pursue any other postconviction remedy.

Second, Warrior asserts that the plea colloquy was defective because the circuit court did not advise him that he was giving up his right to present certain evidence at trial. He then describes the evidence that he believes he would have had the right to present and that he asserts would have revealed his "actual innocence." The circuit court, however, explicitly advised Warrior that he was giving up his rights to testify and to present evidence at trial. To the extent Warrior suggests that the circuit court should have described each item of evidence that he might present to a jury, that suggestion lacks arguable merit. *See* ***Pegeese***, 387 Wis. 2d 119, ¶23.

The circuit court did have a duty to ensure that Warrior understood the elements of the crime that the State would be required to prove at trial, *see* ***State v. Brown***, 2006 WI 100, ¶58, 293 Wis. 2d 594, 716 N.W.2d 906, and the circuit court fulfilled that duty. Specifically, after confirming that the State's theory was that Warrior used excessive force in self-defense, the circuit court explained to him that to obtain a conviction at trial, the State would be required to prove that Warrior caused the victim's death and intended to cause that death, and that he unreasonably used more force than was necessary to protect himself. *See* WIS. STAT. § 940.05(1) (2015-16); WIS JI—CRIMINAL 1017. Additionally, the circuit court confirmed

Warrior's understanding that the State would be required to prove that he committed the crime by use of a dangerous weapon. *See* WIS. STAT. § 939.63 (1)(b) (2015-16); WIS JI—CRIMINAL 990.

The circuit court also fulfilled its obligation to ensure the existence of a factual basis for Warrior's plea. *See* WIS. STAT. § 971.08(1)(b). In response to the circuit court's inquiry, Warrior stated on the record that he had been friendly with Street, who was "like a brother," and that six months before the instant case arose, Street admitted to Warrior that Street had shot and killed another person, Clifford Morgan. Warrior went on to explain that he therefore felt during the struggle on June 15, 2016, that his own life and Watson's life were in danger. Warrior added that he "felt bad," and "felt like [he] used too much force ... in defending [him]self." In addition, the prosecutor acknowledged that after police arrested Warrior for Street's death and obtained a custodial statement from Warrior about the circumstances of the shooting, the Milwaukee Police Department deemed Morgan's homicide solved and "announc[ed] in a press release that London Street had, in fact committed that homicide." The circuit court concluded that a factual basis existed for Warrior's guilty plea.

We are satisfied that the record—including the plea questionnaire and waiver of rights form and addendum, the attached jury instruction bearing Warrior's initials and describing the elements of second-degree intentional homicide, and the plea hearing transcript—demonstrates that Warrior entered his guilty plea knowingly, intelligently, and voluntarily. *See* WIS. STAT. § 971.08; *see also* ***Bangert***, 131 Wis. 2d at 266-72. Accordingly, the record does not reflect any basis for an arguably meritorious challenge to the validity of his plea.

We next consider whether Warrior could pursue an arguably meritorious claim that the circuit court erroneously exercised its sentencing discretion. Sentencing lies within the circuit court's discretion, and our review is limited to determining if the circuit court erroneously exercised its discretion. *See* ***State v. Gallion***, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197. "When the exercise of discretion has been demonstrated, we follow a consistent and strong policy against interference with the discretion of the [circuit] court in passing sentence." ***State v. Stenzel***, 2004 WI App 181, ¶7, 276 Wis. 2d 224, 688 N.W.2d 20.

The circuit court must "specify the objectives of the sentence on the record. These objectives include, but are not limited to, the protection of the community, punishment of the defendant, rehabilitation of the defendant, and deterrence to others." ***Gallion***, 270 Wis. 2d 535, ¶40. In seeking to fulfill the sentencing objectives, the circuit court must consider the primary sentencing factors of "the gravity of the offense, the character of the defendant, and the need to protect the public." ***State v. Ziegler***, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. The circuit court may also consider a wide range of other factors concerning the defendant, the offense, and the community. *See* ***id.*** The circuit court has discretion to determine both the factors that are relevant in imposing sentence and the weight to assign to each relevant factor. *See* ***Stenzel***, 276 Wis. 2d 224, ¶16.

Warrior asserts that the circuit court erred by failing to state the goals of the sentence. Pursuit of this claim would be frivolous within the meaning of ***Anders***. The circuit court identified punishment and deterrence as the sentencing goals, explaining that "if you take somebody's life, there has to be punishment," and that the community must understand that "there are serious consequences" for committing "horrific crimes."

Moreover, the circuit court discussed the factors that it deemed relevant to the sentencing goals. It found that the offense was serious but also recognized the existence of mitigating circumstances, particularly Warrior's perception that self-defense was required because Street posed a threat. In this regard, the circuit court read into the record a portion of a police report that defense counsel offered. The report documented a witness's statement to police describing the June 15, 2016 incident, a statement that sharply contrasted with the suggestion in the criminal complaint that Street was unarmed when he was killed. Specifically, the report provided:

> Warrior was yelling at Street, [and the witness] observed that Street had a handgun on his lap; and his arms were down at his side. The witness says as Warrior was yelling at Street, Watson attempted to take Street's gun off of his lap. As Watson and Street were wrestling over the gun, Warrior pulled out a different handgun from his waistband and started to point it at Street. The witness says that Watson was able to gain complete control of Street's handgun taking it away from him causing Street to fall to the ground. As Street was on the ground, Warrior began to shoot Street. The witness says that after the shots were fired, everyone ran off, including [the witness].

The circuit court found that this statement lent "some credence" to Warrior's position.

The circuit court considered Warrior's character, finding that Warrior had a "lot of problems growing up" and that he took responsibility for the offense in this case but also finding that he had been released from prison to extended supervision only seven months before the shooting and that he had a firearm while he was prohibited from possessing one. The circuit court also discussed the need to protect the public, finding that "everyone's armed to the teeth" and that all three men involved in the incident were felons who should not have had guns. In sum, there is no merit to a claim that the circuit court failed to identify its sentencing goals or that it failed to discuss the factors relevant to achieving those goals.

Warrior next asserts that the circuit court erroneously exercised its sentencing discretion by failing to give a reason for requiring him to serve his sentence consecutive to the sentence that he was serving for his 2011 armed robbery conviction. Further pursuit of this claim would lack arguable merit. The circuit court explained that a consecutive sentence was required because the instant offense was "a separate and distinct crime that [Warrior] committed." That explanation was sufficient. When a defendant faces sentencing for a crime unrelated to a past offense for which the defendant previously was sentenced and is serving time, the circuit court is not required to identify additional reasons for imposing a consecutive sentence if the circuit court "has considered the proper factors, explained its rationale for the overall sentence it imposes, and the sentence is not unreasonable." *See* ***State v. Matke***, 2005 WI App 4, ¶¶18-19, 278 Wis. 2d 403, 692 N.W.2d 265.

The record here shows that the circuit court discussed relevant and appropriate sentencing factors. Moreover, the sentence was within the maximum sentence allowed by law, *see* ***State v. Scaccio***, 2000 WI App 265, ¶18, 240 Wis. 2d 95, 622 N.W.2d 449, and is not so excessive as to shock the public's sentiment, *see* ***Ocanas v. State***, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). No arguably meritorious basis exists to challenge the circuit court's exercise of sentencing discretion.

Warrior next claims that he has an arguably meritorious claim that he was denied his due process right to be sentenced on the basis of accurate information. To establish a denial of that right, a defendant must show that the circuit court actually relied on inaccurate information when imposing sentence. *See* ***State v. Tiepelman***, 2006 WI 66, ¶¶9, 26, 291 Wis. 2d 179, 717 N.W.2d 1. Warrior asserts that the circuit court considered inaccurate information that Street was unarmed during the incident, that Warrior "stood over Street firing bullets," and that Warrior

had a gang affiliation. There is no arguable merit to these claims because the record shows that the circuit court did not rely on the information that Warrior identifies. The circuit court found that the police report that was read into the record at sentencing provided support for Warrior's contention that Street was in fact armed, and the circuit court emphasized that "one thing [it did] not believe happened was that this was an outright execution." As to Warrior's alleged gang membership, the circuit court noted Warrior's acknowledgement of his past affiliation with "the Cut Throat Mob," and the circuit court expressed skepticism that "the Cut Throat Mob" was, as Warrior described it to the presentence investigator, merely "a group of friends." The circuit court concluded, however, that it did not "know what they were doing, nor d[id it] care; and [it was not] going to guess. It's not the point." In light of the foregoing we are satisfied that Warrior cannot pursue an arguably meritorious claim that he was sentenced on the basis of inaccurate information.

Warrior next asserts that he has an arguably meritorious claim that his trial counsel was ineffective at sentencing. A defendant who claims that counsel was ineffective must show that counsel's performance was deficient and that the deficiency prejudiced the defense. *See* ***Strickland v. Washington***, 466 U.S. 668, 687 (1984). Whether counsel's performance was deficient and whether any deficiency was prejudicial are questions of law that we review *de novo*. *See* ***State v. Johnson***, 153 Wis. 2d 121, 128, 449 N.W.2d 845 (1990). To demonstrate deficient performance, the defendant must show specific acts or omissions of counsel that are "outside the wide range of professionally competent assistance." *See* ***Strickland***, 466 U.S. at 690. To demonstrate prejudice, "[t]he defendant must show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been

different." ***Id.*** at 694. If a defendant fails to satisfy one prong of the analysis, the court need not address the other. *See* ***id.*** at 697.

Warrior alleges that his trial counsel was ineffective for failing to present mitigating information to the sentencing court that Warrior had been the victim of a kidnapping and that he therefore suffered from ongoing psychological problems. Pursuit of these allegations would be frivolous within the meaning of ***Anders***. The information was presented to the circuit court in the PSI and presented again in a letter from Warrior's sister. Trial counsel then highlighted both the alleged kidnapping and the trauma that Warrior claimed to have experienced as a result. To the extent that Warrior implies that his trial counsel performed deficiently by failing to obtain psychological records regarding the alleged trauma, we observe that "[t]he reasonableness of counsel's actions may be determined or substantially influenced by the defendant's own statements or actions." *See* ***Strickland***, 466 U.S. at 691. Here, Warrior has not demonstrated that any relevant psychological records exist by submitting them to this court for review, nor has he demonstrated that he told his trial counsel where any such psychological records might be found. Moreover, the PSI reflects that Warrior had never received any mental health diagnoses, and he told the circuit court at sentencing that he had reviewed the PSI and had nothing to add or change. In sum, there is no merit to a claim that trial counsel was ineffective in regard to presenting mitigating evidence of trauma in Warrior's past.

Warrior next alleges that he has an arguably meritorious claim that his trial counsel was ineffective at sentencing for failing to ensure that the circuit court gave him credit for his assistance in solving the Clifford Morgan homicide. Specifically, Warrior asserts that his trial counsel should have presented testimony from the detectives involved in that homicide investigation. There is no merit to this claim because the record shows that Warrior was not

prejudiced by the alleged deficiency. The information that Warrior disclosed to police and the value of that information in solving Morgan's homicide was squarely before the circuit court. The State first discussed the disclosure during the plea hearing, and the State reiterated the fact of the disclosure during the sentencing hearing. Defense counsel then described in detail Warrior's disclosure and how it allowed the police to solve the Morgan homicide. No reasonable probability exists that further repetition of that information would have changed the outcome of the sentencing proceeding. *See* ***State v. Eckert***, 203 Wis. 2d 497, 513, 553 N.W.2d 539 (Ct. App. 1996). Further pursuit of this claim would be frivolous within the meaning of ***Anders***.

Warrior also suggests that he has arguably meritorious claims that his trial counsel was ineffective in investigating and negotiating a resolution of the substantive charges against him. As set forth above, such claims require a showing of both deficient performance and resultant prejudice to the defense. *See* ***Strickland***, 466 U.S.at 687. In the context of a guilty plea, the defendant must demonstrate prejudice by showing "a reasonable probability that, but for the counsel's errors, he would not have pleaded guilty and would have insisted on going to trial." ***State v. Bentley***, 201 Wis. 2d 303, 312, 548 N.W.2d 50 (1996) (citation omitted).

Warrior asserts that "[i]t does not appear that [trial counsel] employed the services of a private investigator" to speak to potential witnesses. He offers a transcript of proceedings held outside the record reflecting that police questioned a witness who said that she was in a residence with other people when she observed Warrior shooting Street. Warrior suggests that the witness's companions would have aided his defense by buttressing his contention that his fear of Street was reasonable. We are satisfied, however, that no arguably meritorious basis exists to pursue a claim that trial counsel was ineffective in regard to these potential witnesses. Nothing in the record supports an inference that trial counsel failed to investigate them and, were we to

assume that trial counsel omitted some available investigative step, nothing presented to this court supports an arguably meritorious claim that Warrior suffered prejudice from the omission. Specifically, nothing indicates that any potential witness could offer evidence showing that, as a matter of law, Warrior used reasonable force when he shot Street twice in the back and once in the back of head. Accordingly, no reasonable probability exists that further investigation of potential witnesses would have led Warrior to insist on trying the charges of first-degree intentional homicide while armed and felon in possession of a firearm. *See* ***id.***

Warrior next contends that he has an arguably meritorious claim that his trial counsel was ineffective for negotiating a plea to second-degree intentional homicide while armed because Warrior was "actually innocent" of this offense. In support, Warrior asserts that at trial he would have presented evidence of Street's past conduct and Warrior's alleged post-traumatic stress and paranoia, and Warrior asserts that no jury hearing this evidence would have found him guilty of second-degree intentional homicide. When the record reveals a strategic basis for trial counsel's actions, however, we will conclude that those actions are objectively reasonable. *See* ***State v. Kimbrough***, 2001 WI App 138, ¶¶31-32, 246 Wis. 2d 648, 630 N.W.2d 752. In light of the facts of Street's homicide, trial counsel acted well within professional norms by negotiating a plea agreement that involved Warrior's admission that he used unreasonable force in shooting Street. *See* ***State v. Provo***, 2004 WI App 97, ¶17, 272 Wis. 2d 837, 681 N.W.2d 272.

Warrior next suggests that he has an arguably meritorious claim that his trial counsel was ineffective for "advis[ing him] that he had no defense and that were he to promptly enter a guilty plea, counsel would argue that ... Warrior receive a term of life imprisonment with an eligibility for release to extended supervision after serving 20 years in prison." If trial counsel at some point gave Warrior this advice, the record shows that Warrior was not prejudiced because his

trial counsel incontrovertibly offered different advice as the case progressed. Further pursuit of this issue would lack arguable merit.

Warrior next suggests that he has an arguably meritorious claim that his trial counsel was ineffective for failing to tell him that at trial he could present his subjective beliefs to a jury. The record shows that this claim would lack arguable merit. Warrior's pretrial letters to the circuit court reflect his knowledge that evidence of the defendant's state of mind and the victim's past violence may be relevant when self-defense is an issue; that he had discussed this potential evidence with his trial counsel; and that his trial counsel had advised him that the admission of any such evidence was up to the circuit court. Trial counsel's advice was correct. *See* ***McMorris***, 58 Wis. 2d at 152. Moreover, Warrior was in the courtroom during the pretrial hearing held on the day that he filed a ***McMorris*** motion, and the circuit court explained from the bench that Warrior would be required to testify about his knowledge and beliefs in order to mount the defense that he proposed.

In sum, our review satisfies us that no arguably meritorious basis exists to challenge trial counsel's effectiveness. Further pursuit of this issue would be frivolous within the meaning of ***Anders***.

Next, we agree with appellate counsel that no arguably meritorious basis exists to dispute the circuit court's restitution order requiring Warrior to pay $4,500 in funeral expenses.[2]

[2] Warrior states that "for purposes of [his] no-merit response," he accepts appellate counsel's position that a challenge to the restitution order would lack arguable merit, but he "request[s that restitution] be made a condition of extended supervision." This court, however, reviews the entirety of the record and considers whether it gives rise to arguably meritorious claims for appeal, regardless of whether the appellant accepts a particular contention of appellate counsel. *See* ***State v. Allen***, 2010 WI 89, ¶58, 328 Wis. 2d 1, 786 N.W.2d 124.

Pursuant to WIS. STAT. § 973.20(1r), the circuit court "shall order the defendant to make full or partial restitution ... to any victim of a crime considered at sentencing ... unless the court finds substantial reason not to do so and states the reason on the record." In determining whether to order restitution and the amount to be paid, the circuit court is to consider the amount of the victim's loss, the defendant's financial resources, the defendant's present and future earning ability, the needs and earning ability of the defendant's dependents, and any other factors the court deems appropriate. *See* § 973.20(13)(a)1.-5. When the circuit court has authority to order restitution, we uphold the restitution order if the circuit court properly exercised its discretion. *See* ***State v. Kayon***, 2002 WI App 178, ¶5, 256 Wis. 2d 577, 649 N.W.2d 334. Our standard of review is "highly deferential." *See* ***State v. Fernandez***, 2009 WI 29, ¶8, 316 Wis. 2d 598, 764 N.W.2d 509. We search the record for reasons to sustain the circuit court's exercise of discretion. *See* ***State v. Hershberger***, 2014 WI App 86, ¶43, 356 Wis. 2d 220, 853 N.W.2d 586.

The circuit court had authority under WIS. STAT. § 973.20(4), to order Warrior to pay the cost of funeral and related services because the crime he committed resulted in death. Testimony from a claims specialist established that the Crime Victim Compensation Program paid $4,500 for Street's funeral expenses.[3] The circuit court considered Warrior's ability to pay, including Warrior's acknowledgment that he received occasional gifts from his family, and the circuit court determined that Warrior would be able to make small payments towards restitution while he was confined. Although the circuit court did not explicitly discuss Warrior's dependents or

[3] The State also sought reimbursement of $21,000 that the Crime Victim Compensation Program paid to Street's mother for her lost wages. The circuit court rejected that request as well as a request from Street's mother herself asking that Warrior repay her for cash and electronic devices that she claimed were taken from Street at the scene of the crime. Warrior was not aggrieved by these rulings, and he cannot pursue them on appeal. *See* WIS. STAT. RULE 809.10(4) (appeal permits review only of rulings adverse to the appellant).

his ability to pay following his release, the record shows that he has no children, and the PSI reflects that he supported himself when in the community.

Warrior unsuccessfully argued on his own behalf at the restitution hearing that Street's family should bear a portion of the funeral costs because Street's conduct justified some of the force that Warrior used in committing the homicide. Further pursuit of this issue would lack arguable merit. If an offender played a part in causing the victim's loss, the circuit court may properly require the offender to pay restitution for that loss. *See* ***State v. Madlock***, 230 Wis. 2d 324, 336-37, 602 N.W.2d 104 (Ct. App. 1999).

Warrior also argued unsuccessfully at the restitution hearing that the Department of Corrections should be prohibited from taking any money that he receives as a gift while imprisoned and applying that money toward his restitution and other court-imposed obligations. Further pursuit of this issue would lack arguable merit. An inmate who objects to actions of the Department of Corrections in deducting funds from his or her prison account must seek a remedy through the inmate complaint review system. *See* ***State v. Williams***, 2018 WI App 20, ¶1, 380 Wis. 2d 440, 909 N.W.2d 177.

We last observe that Warrior filed a fifty-nine-page handwritten response to the no-merit report. The response was signed not only by Warrior but also by a third party, whose involvement may explain why the document at times includes assertions that are contradicted by the record. We have carefully reviewed Warrior's response, and we have addressed the issues he raised as we have deemed warranted. To the extent that we have not addressed some matter that Warrior believes has arguable merit for appeal, we assure him that our review of his allegations coupled with our independent review of the record persuade us that no such issue exists, and that

further postconviction or appellate proceedings would be wholly frivolous within the meaning of ***Anders*** and WIS. STAT. RULE 809.32. Additional discussion is not required. *See* ***State v. Waste Mgmt. of Wis.***, 81 Wis. 2d 555, 564, 261 N.W.2d 147 (1978).

IT IS ORDERED that the judgment of conviction is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Angela Conrad Kachelski is relieved of any further representation of Edward J. Warrior, Jr. *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