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**DISTRICT IV**

July 8, 2021

To:

Hon. Todd P. Wolf  
Circuit Court Judge  
Electronic Notice

Cindy Joosten  
Clerk of Circuit Court  
Wood County Courthouse  
Electronic Notice

Winn S. Collins  
Electronic Notice

Roberta A. Heckes  
Electronic Notice

Nathan T. Oswald  
Electronic Notice

Anthony C. Pepalinski 554870  
Columbia Correctional Center  
P.O. Box 900  
Portage, WI 53901-0900

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

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2020AP235-CRNM	State of Wisconsin v. Anthony C. Pepalinski (L.C. # 2018CF339)
2020AP300-CRNM	State of Wisconsin v. Anthony C. Pepalinski (L.C. # 2018CF575)

Before Fitzpatrick, P.J., Blanchard, and Nashold, 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).**

Attorney Roberta Heckes, appointed counsel for Anthony Pepalinski, has filed a no-merit report seeking to withdraw as appellate counsel pursuant to WIS. STAT. RULE 809.32 (2019-20)<sup>1</sup> and *Anders v. California*, 386 U.S. 738 (1967). Pepalinski was sent a copy of the report and has not filed a response. Upon consideration of the report and an independent review of the record,

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

we conclude that there is no arguable merit to any issue that could be raised on appeal. Accordingly, we affirm.

Pepalinski entered into a plea agreement under which he pled guilty in one case to one count of armed robbery as a repeater and guilty in another case to one count of battery to a prisoner. The State agreed to recommend ten years of initial confinement and fifteen years of extended supervision on the armed robbery count, concurrent with three years of initial confinement and three years of extended supervision on the battery count. The parties also agreed that the charges in a third case would be dismissed and read in. The circuit court accepted the plea agreement and followed the State's sentencing recommendation.

The no-merit report addresses whether Pepalinski's guilty pleas were knowing, intelligent, and voluntary. We agree with counsel that there is no arguable merit to this issue. The circuit court's plea colloquy, including the court's references to the plea questionnaire and waiver of rights form, sufficiently complied with the requirements of WIS. STAT. § 971.08 and *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906, relating to the nature of the charges, the maximum penalties, the rights Pepalinski was waiving, and other matters. We also agree with counsel that the circuit court properly established a factual basis for Pepalinski's pleas. We see no other ground on which Pepalinski might challenge his pleas.

We note that Pepalinski initially entered pleas of not guilty by reason of mental disease or defect (NGI). He subsequently entered his guilty pleas after a psychological expert concluded that she could not support NGI pleas. The expert based her conclusion on a clinical interview of Pepalinski and a review of Pepalinski's medical records and other materials. We see no basis in the record to pursue relief relating to Pepalinski's decision to withdraw his NGI pleas.

The no-merit report next addresses whether Pepalinski could pursue any claim for ineffective assistance of trial counsel. We agree with no-merit counsel that the record reveals no arguable basis to pursue such a claim.

Finally, the no-merit report addresses whether the circuit court erroneously exercised its sentencing discretion. We agree with counsel that there is no arguable merit to this issue. The circuit court considered the required sentencing factors along with other relevant factors, and the court did not rely on any inappropriate factors. *See State v. Gallion*, 2004 WI 42, ¶¶37-49, 270 Wis. 2d 535, 678 N.W.2d 197. We see no other arguable basis for Pepalinski to challenge his sentence.

Our review of the record discloses no other potential issues for appeal.

Therefore,

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

IT IS FURTHER ORDERED that Attorney Roberta Heckes is relieved of any further representation of Anthony Pepalinski in this matter. *See* WIS. STAT. RULE 809.32(3).

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

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*Sheila T. Reiff*  
*Clerk of Court of Appeals*