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DISTRICT I

September 8, 2021

To:

Hon. Frederick C. Rosa
Circuit Court Judge
Electronic Notice

Hon. Mark A. Sanders
Circuit Court Judge
Electronic Notice

John Barrett
Clerk of Circuit Court
Electronic Notice

Winn S. Collins
Electronic Notice

John D. Flynn
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Christopher D. Sobic
Assistant State Public Defender
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Paul Jeffery Brown 342109
Waupun Correctional Inst.
P.O. Box 351
Waupun, WI 53963-0351

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

2020AP2050-CRNM	State of Wisconsin v. Paul Jeffery Brown (L.C. # 2018CM1815)
2020AP2051-CRNM	State of Wisconsin v. Paul Jeffery Brown (L.C. # 2018CM2957)
2020AP2052-CRNM	State of Wisconsin v. Paul Jeffery Brown (L.C. # 2018CM3293)

Before Dugan, J.¹

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).

Paul Jeffrey Brown appeals judgments convicting him of one count of battery and two counts of violating a domestic abuse injunction. He also appeals an order denying his

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(f) (2019-20). All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

postconviction motion.² Appointed appellate counsel, Christopher D. Sobic, filed a no-merit report pursuant to WIS. STAT. RULE 809.32 and *Anders v. California*, 386 U.S. 738, 744 (1967). Brown responded to the report. After considering the no-merit report and Brown's response, and after conducting an independent review of the record, as required by *Anders*, this court concludes that there are no issues of arguable merit that could be raised on appeal and summarily affirms. *See* WIS. STAT. RULE 809.21.

This appeal stems from three separate circuit court cases. According to the complaint in the first case, Brown punched C.Y.G. in the face during an argument about their son. According to the complaint in the second case, Brown sent two letters to C.Y.G.'s address after she obtained a domestic abuse injunction against him. According to the complaint in the third case, Brown repeatedly called C.Y.G. from jail and, during one of the calls, told C.Y.G. to get him out of jail. Brown pleaded guilty to three of the six charges against him pursuant to a plea agreement that dismissed and read in the three remaining charges. The circuit court sentenced Brown to a total of twenty-three months of imprisonment. Brown filed a postconviction motion pertaining to all three cases in which he argued that his trial counsel provided him with ineffective assistance. After a hearing, the circuit court denied the motion. This no-merit appeal follows.

The no-merit report first addresses whether there would be arguable merit to a claim that Brown should be allowed to withdraw his guilty pleas because he did not knowingly, intelligently, and voluntarily enter the same. The circuit court conducted a colloquy with Brown that complied with WIS. STAT. § 971.08 and *State v. Bangert*, 131 Wis. 2d 246, 266-72, 389

² The Honorable Mark A. Sanders presided over the plea and sentencing hearings. The Honorable Frederick C. Rosa decided the postconviction motion.

N.W.2d 12 (1986). Prior to the plea hearing, Brown discussed information pertinent to entering his pleas with trial counsel, and he reviewed a plea questionnaire and waiver of rights form with trial counsel and signed it. *See State v. Moederndorfer*, 141 Wis. 2d 823, 827-28, 416 N.W.2d 627 (Ct. App. 1987) (stating that the circuit court may rely on a plea questionnaire and waiver of rights form in assessing the defendant's knowledge about the rights he or she is waiving). Brown stipulated that the facts set forth in the complaints provided a factual basis to convict him of the crimes. Therefore, there would be no arguable merit to an appellate challenge to the pleas.

The no-merit report and Brown's response address whether there would be a basis for challenging the circuit court's determination that Brown did not receive ineffective assistance of trial counsel. In his postconviction motion, Brown argued that he received constitutionally ineffective assistance from his trial counsel because his counsel did not inform him that the State would have to prove that he knew about the domestic abuse injunction. Brown testified at the postconviction motion hearing that he was not given a copy of the domestic abuse injunction when he was incarcerated and did not know it existed when he was accused of violating it. Brown's trial counsel testified to the contrary. Counsel testified that Brown told him he knew about both the temporary restraining order and the injunction, and that he had received a copy of it before he violated it. The circuit court concluded that Brown's counsel's testimony was more credible than Brown's testimony. The circuit court "is the ultimate arbiter of the credibility of the witnesses." *Cogswell v. Robertshaw Controls Co.*, 87 Wis. 2d 243, 250, 274 N.W.2d 647 (1979). There would be no arguable merit to a claim that Brown received ineffective assistance of trial counsel.

The no-merit report next addresses whether there would be arguable merit to a claim that the circuit court erroneously exercised its sentencing discretion when it sentenced Brown to eight months for battery, eight months on one count of violating a domestic abuse injunction and seven months on the second count of violating a domestic abuse injunction, all sentences to be served consecutively to each other and any other sentence Brown was serving. The record establishes that the circuit court considered the general objectives of sentencing and applied the sentencing factors to the facts of this case, reaching a reasoned and reasonable result. *See State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76 (stating that the circuit court must identify the factors it considered and explain how those factors fit the sentencing objectives and influenced its sentencing decision). Upon review, we conclude that there would be no arguable merit to a challenge to the sentence.

In his response, Brown argues that his trial counsel should have asserted his right to a prompt disposition under WIS. STAT. § 971.11(3), which addresses disposition of intrastate detainees. Brown pled guilty to the charges against him. This claim was waived by Brown's guilty pleas. *See State v. Asmus*, 2010 WI App 48, ¶1, 324 Wis. 2d 427, 782 N.W.2d 435 (a guilty plea waives all non-jurisdictional defects and defenses).

This court's review of the record discloses no other potential issues for appeal. Accordingly, this court affirms the convictions and order denying postconviction relief, and discharges appellate counsel of the obligation to further represent Brown.

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

IT IS FURTHER ORDERED that Attorney Christopher D. Sobic is relieved from further representing Paul Jeffrey Brown. *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