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DISTRICT I

October 12, 2021

To:

Hon. Joseph R. Wall
Circuit Court Judge
Electronic Notice

John Barrett
Clerk of Circuit Court
Milwaukee County
Electronic Notice

Winn S. Collins
Electronic Notice

John D. Flynn
Electronic Notice

Kathleen A. Lindgren
Electronic Notice

Curtis Levern Brantley
8840 W. Spokane St.
Milwaukee, WI 53224

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

2021AP557-CRNM State of Wisconsin v. Curtis Levern Brantley
(L.C. # 2017CF1626)

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

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).

Curtis Levern Brantley appeals a judgment convicting him of operating while intoxicated as a seventh offense. Attorney Kathleen A. Lindgren filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2019-20);¹ *Anders v. California*, 386 U.S. 738, 744 (1967). Brantley was advised of his right to respond, but he has not done so. After considering the no-merit report and conducting an independent review of the record as mandated

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

by *Anders*, we conclude that there are no issues of arguable merit that Brantley could raise on appeal. Therefore, we affirm. *See* WIS. STAT. RULE 809.21.

The no-merit report addresses whether the circuit court properly denied Brantley's motion to suppress the blood that was drawn from him at the hospital to determine whether he was under the influence of alcohol or controlled substances. "The Fourth Amendment to the United States Constitution and Article I, Section 11 of the Wisconsin Constitution prohibit unreasonable searches and seizures." *State v. Artic*, 2010 WI 83, ¶28, 327 Wis. 2d 392, 786 N.W.2d 430. At the suppression hearing, Police Officer Matthew Phillipson testified that he responded to a call regarding a car crash involving Brantley. Officer Phillipson testified that he asked Brantley if Brantley's blood could be drawn, and Brantley said that it could. Officer Phillipson's body camera footage was played at the hearing, and it corroborated Officer Phillipson's testimony. There was no testimony that contradicted Officer Phillipson's account of what occurred. The circuit court properly denied the motion to suppress because Brantley's consent to the blood draw falls under one of the well-established exceptions to the warrant requirement. *See State v. Phillips*, 218 Wis. 2d 180, 196, 577 N.W.2d 794 (1998). There would be no arguable merit to a challenge to the order granting Brantley's motion to suppress.

The no-merit report addresses whether Brantley's no-contest plea was knowingly, intelligently, and voluntarily entered. In order to ensure that a defendant is knowingly, intelligently, and voluntarily waiving the right to trial by entering a plea, the circuit court must conduct a colloquy with the defendant to ascertain whether the defendant understands the elements of the crime to which he is pleading guilty, the constitutional rights he is waiving by entering the plea, and the maximum potential penalties that could be imposed. *See* WIS. STAT. § 971.08, and *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906. A plea

questionnaire and waiver-of-rights form that the defendant has acknowledged reviewing and understanding may reduce “the extent and degree of the colloquy otherwise required between the [circuit] court and the defendant....” *State v. Hoppe*, 2009 WI 41, ¶42, 317 Wis. 2d 161, 765 N.W.2d 794 (citation omitted). Based on the circuit court’s thorough plea colloquy with Brantley and Brantley’s review of the plea questionnaire and waiver-of-rights form, there would be no arguable merit to an appellate challenge to the plea.

The no-merit report also addresses whether there would be arguable merit to a claim that the circuit court misused its discretion when it sentenced Brantley. The circuit court sentenced Brantley to seven years of imprisonment, with three years and six months of initial confinement and three years and six months of extended supervision. The circuit court considered appropriate factors in deciding the length of sentence to impose and explained its decision in accordance with the framework set forth in *State v. Gallion*, 2004 WI 42, ¶¶39-46, 270 Wis. 2d 535, 678 N.W.2d 197. Therefore, there would be no arguable merit to an appellate challenge to the sentence.

Our independent review of the record also reveals no arguable basis for reversing the judgment of conviction. Therefore, we accept the no-merit report, affirm the judgment of conviction, and relieve Attorney Lindgren of further representation of Brantley.

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

IT IS FURTHER ORDERED that Attorney Kathleen A. Lindgren is relieved of further representation of Brantley in this matter. *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