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**DISTRICT II**

October 20, 2021

To:

Hon. Jerilyn M. Dietz  
Circuit Court Judge  
Electronic Notice

Lynn Zigmunt  
Clerk of Circuit Court  
Manitowoc County  
Electronic Notice

Erica L. Bauer  
Electronic Notice

Winn S. Collins  
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Richard D. Douglas, #516208  
Oshkosh Correctional Inst.  
P.O. Box 3310  
Oshkosh, WI 54903-3310

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

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2020AP1017-CRNM	State of Wisconsin v. Richard D. Douglas (L.C. #2018CF34)
2020AP1018-CRNM	State of Wisconsin v. Richard D. Douglas (L.C. #2018CT330)
2020AP1019-CRNM	State of Wisconsin v. Richard D. Douglas (L.C. #2018CT358)
2020AP1020-CRNM	State of Wisconsin v. Richard D. Douglas (L.C. #2018CF745)
2020AP1021-CRNM	State of Wisconsin v. Richard D. Douglas (L.C. #2018CT372)
2020AP1130-CRNM	State of Wisconsin v. Richard D. Douglas (L.C. #2019CF20)
2020AP1175-CRNM	State of Wisconsin v. Richard D. Douglas (L.C. #2017CF641)
2020AP1176-CRNM	State of Wisconsin v. Richard D. Douglas (L.C. #2018CF165)

Before Gundrum, P.J., Neubauer and Grogan, 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).**

In these consolidated cases, Richard D. Douglas appeals judgments of conviction for one count of strangulation, one count of contact with a victim after a domestic abuse arrest, two counts of battery, five counts of bail jumping, and three counts of operating after revocation. Douglas's appointed appellate counsel has filed a no-merit report pursuant to WIS. STAT.

RULE 809.32 (2019-20),<sup>1</sup> and *Anders v. California*, 386 U.S. 738 (1967). Douglas was advised of his right to file a response but has not done so. Upon consideration of the no-merit report and an independent review of the record as mandated by *Anders* and RULE 809.32, we summarily affirm the judgments because we conclude there is no arguable merit to any issue that could be raised on appeal. *See* WIS. STAT. RULE 809.21.

These appeals encompass several circuit court cases that proceeded together at a combined plea hearing and at sentencing. Pursuant to a negotiated plea agreement, Douglas entered an *Alford*<sup>2</sup> plea to the strangulation charge and entered no contest pleas to the other eleven charges listed above. The State agreed that a number of other charges would be dismissed and read in at sentencing. The State also agreed to recommend no more than a total of sixty days' jail time on the operating after revocation charges, consecutive to whatever other sentences the circuit court would impose. The parties were otherwise free to argue at sentencing.

The circuit court accepted the parties' plea agreement and sentenced Douglas as follows: three years of initial confinement and three years of extended supervision on the strangulation charge; nine months of jail time on the contact after a domestic abuse arrest charge and each of the two battery charges, with these sentences imposed consecutive to one another and to the strangulation charge; a five-year imposed and stayed sentence on each of the five bail-jumping

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

<sup>2</sup> *See North Carolina v. Alford*, 400 U.S. 25 (1970).

charges, with Douglas to serve a three-year term of probation consecutive to his total confinement time;<sup>3</sup> and costs on the three operating after revocation charges.

The no-merit report addresses whether Douglas's *Alford* plea and no contest pleas were knowing, intelligent, and voluntary, and also whether there is any other basis for Douglas to challenge his pleas. We agree with counsel that there are no nonfrivolous grounds for Douglas to challenge his pleas. The circuit court's plea colloquy, including the court's references to the plea questionnaire and waiver of rights forms, 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 that Douglas was waiving, and other matters. The circuit court explained the effect of an *Alford* plea to Douglas, and the court found strong evidence of guilt before accepting Douglas's *Alford* plea. We see no other arguable basis for Douglas to seek plea withdrawal.<sup>4</sup>

The no-merit report next addresses whether the circuit court properly exercised its sentencing discretion, and also whether there is any other basis for Douglas to challenge his

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<sup>3</sup> The court made the sentences on the five bail-jumping charges concurrent to one another.

<sup>4</sup> As counsel explains in the no-merit report, the plea questionnaire and waiver of rights form for the strangulation charge stated an incorrect maximum penalty. However, this error was rectified during the plea hearing when it was identified on the record and Douglas stated that he understood the correct maximum penalty. The plea form also listed an incorrect statutory section number for the strangulation charge. However, the jury instructions attached to the form correctly stated the section number and the elements of strangulation, and the circuit court correctly identified the charge and elements during Douglas's plea colloquy. Accordingly, we see no arguable merit to pursuing relief based on these errors on the form.

sentences. We agree with counsel that there is no nonfrivolous basis to challenge the sentences. The circuit court discussed the required sentencing factors along with other relevant factors. *See State v. Gallion*, 2004 WI 42, ¶¶37-49, 270 Wis. 2d 535, 678 N.W.2d 197. The court did not consider any improper factors. Each sentence was at or within the maximum allowed and, when viewed as a whole, the sentences were well within the maximum penalty that Douglas could have received. Douglas could not plausibly argue that the sentences were unduly harsh or so excessive as to shock public sentiment. *See Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). We see no other arguable basis for Douglas to challenge his sentences.

Based upon our independent review of the record, we have not identified any other arguable basis for reversing the judgments of conviction. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

Therefore,

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

Nos. 2020AP1017-CRNM  
2020AP1018-CRNM  
2020AP1019-CRNM  
2020AP1020-CRNM  
2020AP1021-CRNM  
2020AP1130-CRNM  
2020AP1175-CRNM  
2020AP1176-CRNM

IT IS FURTHER ORDERED that Attorney Erica L. Bauer is relieved from further representing Richard D. Douglas in this appeal. *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*