



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT III

October 26, 2021

To:

Hon. Mark Mangerson
Electronic Notice

Frances Philomene Colbert
Electronic Notice

Hon. Patrick F. O'Melia
Circuit Court Judge
Electronic Notice

Winn S. Collins
Electronic Notice

Brenda Behrle
Clerk of Circuit Court
Oneida County Courthouse
Electronic Notice

Michael W. Schiek
Electronic Notice

Tyler N. Hoople
5219 Ridge Street
Rhineland, WI 54501

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

2019AP864-CRNM State of Wisconsin v. Tyler N. Hoople
(L. C. No. 2016CF93)

Before Stark, P.J., Hruz and Gill, 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).

Tyler Hoople appeals from a judgment convicting him of burglary and from sentences imposed following the revocation of his probation on convictions for theft and criminal damage to property. Attorney Mark Thompson filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2019-20).¹ The no-merit report sets forth the procedural history of the case and addresses Hoople's plea on the burglary count and sentences imposed on

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

all three counts. Hoople was advised of his right to respond to the no-merit report, but he has not filed a response. Having independently reviewed the entire record as mandated by *Anders v. California*, 386 U.S. 738, 744 (1967), we conclude that counsel² shall be allowed to withdraw and that the judgment of conviction will be summarily affirmed. *See* WIS. STAT. RULE 809.21.

The State charged Hoople with burglary while armed with a dangerous weapon, theft, receiving stolen property, criminal damage to property, and bail jumping. Hoople pled no contest to a reduced charge of burglary as well as the theft and property damage counts. In exchange, the State agreed to ask the circuit court to defer entry of judgment on the burglary count, and to later dismiss that count if the terms of a Deferred Prosecution Agreement (DPA) were satisfied,³ to withhold sentences on the theft and property damage counts—subject to a term of probation with conditional jail time—and to dismiss the other two charges.

The circuit court accepted Hoople’s plea after conducting a plea colloquy and reviewing a signed plea questionnaire and waiver of rights form, with attached jury instructions. The court then proceeded directly to sentencing and followed the recommendation of the parties. It deferred entry of judgment on the burglary count and it withheld sentence and imposed probation on the theft and property damage counts with forty-five days of conditional jail time.

² Attorney Mark Thompson has since been replaced by Attorney Frances Colbert, who has not withdrawn the no-merit report.

³ The parties signed a document labeled as “Deferred Entry of Judgment” that appears to blend the procedure for requesting a deferred entry of judgment pursuant to a plea agreement with the procedure for a DPA under WIS. STAT. § 971.39. *See State v. Wollenberg*, 2004 WI App 20, ¶¶9-11, 268 Wis. 2d 810, 674 N.W.2d 916 (2003) (explaining differences between the two procedures). None of the differences between the two procedures are relevant here, given the procedural posture of this case.

The Department of Corrections subsequently revoked Hoople's probation and the State rescinded the DPA. After hearing from the parties, the circuit court discussed proper sentencing factors, including the gravity of the offense, the need to protect the public, and Hoople's character. The court then sentenced Hoople to concurrent jail sentences of one year on the theft count and six months on the property damage count. The court withheld sentence on the burglary count, subject to a five-year term of probation.

We agree with counsel's description, analysis and conclusion that any challenge to the plea and probation term on the burglary count or to the sentences on the theft and property damage counts would lack arguable merit. Our independent review of the record discloses no other potential issues for appeal. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders*.

Upon the foregoing,

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

IT IS FURTHER ORDERED that Attorney Frances Philomene Colbert is relieved of any further representation of Tyler Hoople in this matter pursuant to 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