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**DISTRICT I**

November 9, 2021

To:

Hon. Glenn H. Yamahiro  
Circuit Court Judge  
Electronic Notice

John Barrett  
Clerk of Circuit Court  
Milwaukee County  
Electronic Notice

Christopher P. August  
Electronic Notice

Winn S. Collins  
Electronic Notice

John D. Flynn  
Electronic Notice

Anthony D. Taylor 17123-089  
FCI Pekin  
Federal Correctional Institution  
P.O. Box 5000  
Pekin, IL 61555

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

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2020AP2100-CRNM      State of Wisconsin v. Anthony D. Taylor (L.C. # 2016CF4629)

Before Brash, C.J., Dugan and White, 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).**

Anthony D. Taylor appeals a judgment of conviction entered after he pled guilty to possessing a firearm as a felon and operating a motor vehicle while intoxicated as a first offense and with a minor passenger. Appellate counsel, Attorney Christopher P. August, filed a no-merit report and a supplemental no-merit report pursuant to *Anders v. California*, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32 (2019-20).<sup>1</sup> Taylor did not file a response. Upon

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

consideration of the no-merit reports and an independent review of the record as mandated by *Anders*, we conclude that no arguably meritorious issues exist for an appeal, and therefore we summarily affirm. *See* WIS. STAT. RULE 809.21.

The criminal complaint reflects that on October 12, 2016, a police officer on duty in Wauwatosa observed a Lexus travelling at speeds of sixty to sixty-five miles per hour in the 6100 block of North Avenue, where the speed limit is twenty-five miles per hour. The officer conducted a traffic stop of the Lexus. During the stop, the officer observed that the vehicle contained an infant passenger and that the driver, subsequently identified as Taylor, had bloodshot eyes, slurred his words, and smelled of alcohol. When Taylor got out of the vehicle, the officer observed a handgun in the map pocket of the driver's-side front door. The complaint further reflects that Taylor had previously been convicted of a felony, and the conviction remained of record at the time of the traffic stop.

The State initially charged Taylor with one felony count of possession of a firearm as a felon and one misdemeanor count of operating a motor vehicle while intoxicated as a first offense and with a minor passenger. After a test of Taylor's blood drawn within three hours of the traffic stop revealed that he had a blood alcohol concentration of .143 percent, the State added a second misdemeanor count of operating a motor vehicle with a prohibited blood alcohol concentration as a first offense and with a minor passenger. For the felony, Taylor faced maximum penalties of a \$25,000 fine and imprisonment of ten years. *See* WIS. STAT. §§ 941.29(1m)(a), 939.50(3)(g) (2015-16). For each misdemeanor, Taylor faced a minimum fine of \$350, a maximum fine of \$1,100, minimum incarceration of five days in jail, and maximum incarceration of six months in jail. *See* WIS. STAT. §§ 346.63(1)(a)-(b), 346.65(2)(f)1. (2015-16). Additionally, upon conviction of either misdemeanor, Taylor faced a minimum driver's license

revocation of twelve months and a maximum driver's license revocation of eighteen months. *See* WIS. STAT. §§ 343.30 (1q)(b)2, (1q)(b)4m. (2015-16).

Taylor disputed the charges for some time, then failed to appear for a hearing in September 2018. He was re-arrested in January 2019, and in due course he elected to resolve the charges with a plea agreement. Pursuant to its terms, he pled guilty to possessing a firearm as a felon and operating a motor vehicle while intoxicated as a first offense and with a minor passenger. The State moved to dismiss the second misdemeanor charge and agreed to make certain sentence recommendations. The circuit court accepted Taylor's guilty pleas, dismissed the second misdemeanor charge, and, at the parties' request, proceeded immediately to sentencing. The circuit court imposed thirty months of initial confinement and twenty-four months of extended supervision for the felony, and, for the misdemeanor, a concurrent six-month jail sentence, a \$350 fine, and a twelve-month license revocation. The circuit court also awarded Taylor 262 days of credit against both sentences and found him eligible for the Wisconsin substance abuse program after serving eighteen months of initial confinement.<sup>2</sup>

In postconviction proceedings, Taylor moved for eleven additional days of sentence credit on the ground that the period between his arrest on a bench warrant on January 24, 2019, and his sentencing on October 24, 2019, constituted 273 days. The circuit court granted the motion.

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<sup>2</sup> Taylor was ten days shy of his fortieth birthday on his sentencing date, and the circuit court concluded that he was ineligible for the challenge incarceration program. *See* WIS. STAT. § 302.045(2)(b) (providing that a defendant is disqualified from participation in the challenge incarceration program if the defendant has attained the age of forty years before his or her participation would begin).

In the no-merit report, appellate counsel addressed the potential issues of whether Taylor entered his guilty pleas knowingly, intelligently, and voluntarily, and whether the circuit court properly exercised its sentencing discretion. This court is satisfied that appellate counsel properly analyzed those issues, and we agree with appellate counsel that further pursuit of either issue would lack arguable merit. Additional discussion of those issues is not warranted.

In the supplemental no-merit report, appellate counsel examined whether Taylor could pursue an arguably meritorious claim for additional sentence credit for the days he was in custody following his arrest on October 12, 2016, until October 15, 2016, when a court commissioner granted him a signature bond. Appellate counsel concluded that Taylor could not pursue such a claim. In support of that conclusion, appellate counsel submitted documentation showing that Taylor received credit for those days against an earlier-imposed period of confinement that Taylor completed serving before he was sentenced in the instant matter. We agree that Taylor cannot pursue an arguably meritorious claim that he is entitled to credit in this case for those same days in custody. *See State v. Jackson*, 2000 WI App 41, ¶20, 233 Wis. 2d 231, 607 N.W.2d 338 (holding that Wisconsin law “bars a claim for dual credit where the defendant has already received the same credit against a prior sentence that the defendant has already served”).

Our independent review of the record does not disclose any other potential issues for appeal. We conclude that further postconviction or appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

Upon the foregoing, therefore,

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

IT IS FURTHER ORDERED that Attorney Christopher P. August is relieved of any further representation of Anthony D. Taylor. *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*