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**DISTRICT II**

February 16, 2022

To:

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Circuit Court Judge  
Electronic Notice

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Clerk of Circuit Court  
Walworth County  
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Pamela Moorshead  
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Bethny L. Hilgeman, #679677  
Robert Ellsworth Corr. Center  
21425-A Spring St.  
Union Grove, WI 53182-9408

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

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2020AP524-CRNM      State of Wisconsin v. Bethny L. Hilgeman (L.C. #2018CF405)

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

Bethny L. Hilgeman appeals from a judgment convicting her of three counts of injury by intoxicated use of a motor vehicle (great bodily harm) contrary to WIS. STAT. § 940.25(1)(a) (2017-18) and from an order denying her sentence modification motion. Hilgeman's appellate counsel 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). Hilgeman received a copy of the report and was advised of her right to file a response. She has not done so. Upon consideration of the report and an

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

independent review of the record as mandated by *Anders* and RULE 809.32, we summarily affirm the judgment and order because there are no issues that would have arguable merit for appeal. WIS. STAT. RULE 809.21.

The circuit court sentenced Hilgeman to three concurrent ten-year terms (five years of initial confinement and five years of extended supervision).

The no-merit report addresses the following possible appellate issues: (1) whether Hilgeman’s guilty pleas were knowingly, voluntarily and intelligently entered; (2) whether the circuit court misused its sentencing discretion; and (3) whether the circuit court properly concluded that Hilgeman did not demonstrate the existence of a new factor warranting sentencing modification. After reviewing the record, we conclude that counsel’s no-merit report properly analyzes these issues and correctly determines that these issues lack arguable merit.

The record surrounding the entry of Hilgeman’s guilty pleas would not support a motion to withdraw those pleas due to a defective plea colloquy. See *State v. Pegeese*, 2019 WI 60, ¶¶36-38, 387 Wis. 2d 119, 928 N.W.2d 590. Additionally, “a guilty plea waives all nonjurisdictional defects and defenses.” *State v. Popp*, 2014 WI App 100, ¶13, 357 Wis. 2d 696, 855 N.W.2d 471 (citation omitted).

The circuit court engaged in a proper exercise of sentencing discretion after considering various sentencing factors. *State v. Gallion*, 2004 WI 42, ¶76, 270 Wis. 2d 535, 678 N.W.2d 197 (we review the sentence for a misuse of discretion); *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76 (sentencing objectives and factors discussed).

The circuit court properly denied Hilgeman’s sentence modification motion because she did not establish the existence of an alleged new factor: the lack of substance abuse and cognitive behavior treatment programs in custody. As the court stated when it denied the motion, the court’s main focus at sentencing was Hilgeman’s “incredibly aggravated” crimes and the need to protect the public. The availability of treatment and programming were not “highly relevant to the imposition of sentence.” *State v. Harbor*, 2011 WI 28, ¶¶40, 52, 333 Wis. 2d 53, 797 N.W.2d 828.

In addition to the issues discussed above, we have independently reviewed the record. Our independent review of the record did not disclose any arguably meritorious issue for appeal. Because we conclude that there would be no arguable merit to any issue that could be raised on appeal, we accept the no-merit report, affirm the judgment of conviction and order denying sentence modification and relieve Attorney Pamela Moorshead of further representation of Hilgeman in this matter.

Upon the foregoing reasons,

IT IS ORDERED that the judgment and order of the circuit court are summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Pamela Moorshead is relieved of further representation of Bethny L. Hilgeman in this matter.

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*