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**DISTRICT I**

April 26, 2022

To:

Hon. Ellen R. Brostrom  
Circuit Court Judge  
Electronic Notice

Tammy Kruczynski  
Juvenile Clerk  
Milwaukee County Courthouse  
Electronic Notice

Kimberley Kaye Bayer  
Electronic Notice

Gilbert Fielding Urfer  
Electronic Notice

R. V. M.  
4631 N. 31<sup>st</sup> Street  
Milwaukee, WI 53209

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

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2021AP1046-NM

In the interest of R.V.M., a person under the age of 18:  
State of Wisconsin v. R.V.M. (L.C. # 2019JV904)

Before White, J.<sup>1</sup>

R.V.M. appeals from a dispositional order adjudicating him delinquent following his admissions to one count of robbery with the threat of force, as a party to the crime, and one count of operating motor vehicle without consent of the owner, as a party to the crime. Appellate counsel, Kimberley Bayer, has filed a no-merit report and a supplemental report, pursuant to WIS. STAT. § 809.32 (2019-20) and *Anders v. California*, 386 U.S. 738 (1967). R.V.M. was advised of his right to file a response, but he has not responded. Based upon our independent review of the record, as mandated by *Anders*, and counsel's report, we conclude there is no

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<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(e) (2019-20). All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

arguable merit to any issue that could be raised on appeal. We summarily affirm the dispositional order.

On December 19, 2019, a delinquency petition charged R.V.M. with five crimes relating to a car robbery that took place on December 16, 2019. Pursuant to a plea agreement, R.V.M. ultimately entered admissions to two charges: robbery with the threat of force, as a party to the crime, and operating a motor vehicle without consent of the owner, as a party to the crime. The State moved to dismiss the remaining charges. The circuit court ordered R.V.M. placed out of his home into the custody of the Department of Corrections to be committed to Lincoln Hills School until his eighteenth birthday.

The no-merit report examines three potential issues: whether R.V.M. knowingly, voluntarily, and intelligently entered admissions to the delinquency petition; whether R.V.M. waived his right to appear personally and instead appear via video; and whether the disposition was legal and based upon a reasonable exercise of discretion. We address each issue.

Before accepting a juvenile's admission to facts alleged in a delinquency petition, the circuit court must: (1) address the juvenile personally and determine that the admission is made voluntarily, with an understanding of the nature of the acts alleged in the petition and the potential dispositions; (2) establish whether any threats or promises were made to elicit an admission; and (3) make such inquiries as satisfactorily establish a factual basis for the admissions. *See* WIS. STAT. § 938.30(8)(a)-(c). “[T]o make a prima facie case for plea withdrawal, a juvenile must first show that the plea was accepted without the circuit court’s conformance with mandatory procedures.” *See State v. Kywanda F.*, 200 Wis. 2d 26, 42, 546 N.W.2d 440 (1996).

Here, the circuit court determined that R.V.M. understood the legal rights he was giving up, the nature of the alleged acts, and the potential dispositions. The circuit court addressed the elements of the offenses and confirmed with R.V.M. that no threats or promises were made to him other than the plea agreement. A plea questionnaire and waiver of rights form for juveniles electronically signed by trial counsel is also in the record. *Cf. State v. Hoppe*, 2009 WI 41, ¶32, 317 Wis. 2d 161, 765 N.W.2d 794 (stating that a plea questionnaire and waiver of rights form helps to ensure a knowing, intelligent, and voluntary plea). The record as a whole satisfies us that the proceedings here adequately fulfill the statutory requirements and that R.V.M.'s admissions were knowing, intelligent, and voluntary.

We next consider whether R.V.M. validly waived his right to personally appear in court. At the time of R.V.M.'s admission, our supreme court's April 15, 2020 order entitled "In Re the Matter Of Remote Hearings During the Covid-19 Pandemic" was in effect. (Some capitalization omitted.) That order provided that "[j]udges may waive in-person appearance requirements otherwise required by statute .... As such, juveniles intending to admit to the facts of a delinquency petition may do so by teleconference or video conference after waiving their right to personally appear before the court."

The record reflects that R.V.M. made a valid waiver of his right to personally appear. A document entitled "Waiver of Physical Appearance in Courtroom" is on the record. (Bolding omitted.) That form indicates that R.V.M. understood that he had a right to be physically present but that he freely agreed to conduct the hearing by video conference. R.V.M. also agreed to the video conferencing technology with the judge on the record. We agree with appellate counsel that there would be no arguable merit to challenge the waiver.

Lastly, we consider whether there is any arguable merit to a challenge to the disposition placing R.V.M at Lincoln Hills. Disposition of a delinquency adjudication is left to the circuit court's sound discretion. See *State v. James P.*, 180 Wis. 2d 677, 682, 510 N.W.2d 730 (Ct. App. 1993). In determining that disposition, the circuit court should "consider the seriousness of the offense, the need to protect citizens from juvenile crime, the need to prevent further delinquent acts, and the juvenile's needs for care and treatment." *State v. Richard J.D.*, 2006 WI App 242, ¶13, 297 Wis. 2d 20, 724 N.W.2d 665. There are multiple disposition options available. See WIS. STAT. § 938.34. The circuit court may order correctional placement if (1) the juvenile has been adjudicated delinquent for the commission of an act that would be punishable by six months or more if committed by an adult and (2) the juvenile is found to be a danger to the public and in need of restrictive custodial treatment. See WIS. STAT. § 938.34(4m)(a)(b).

Here, the circuit court discussed R.V.M.'s pattern of dangerous behavior, describing R.V.M.'s conduct as "dangerous" and "traumatizing to community members." The circuit court noted that the acts committed by R.V.M. would have been punishable by more than six months if they had been committed by an adult. The circuit court also stated that Lincoln Hills would provide R.V.M. with "structure" and address his rehabilitative needs. The circuit court acknowledged that this was a "hard" case, but stated that R.V.M. "pose[d] a danger to the public and need[ed] a restrictive custodial setting for treatment." We discern no erroneous exercise of discretion in this decision and agree with appellate counsel that there is no arguable merit to a challenge to the disposition.

Our independent review of the record reveals no other potential issues of arguable merit.

Upon the foregoing, therefore,

IT IS ORDERED that the dispositional order is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Kimberley Bayer is relieved of further representation of R.V.M. in this matter. *See* WIS. STAT. RULE 809.32(3).

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*Sheila T. Reiff*  
*Clerk of Court of Appeals*