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DISTRICT I

July 6, 2022

To:

Hon. Frederick C. Rosa
Circuit Court Judge
Electronic Notice

Jay R. Pucek
Electronic Notice

George Christenson
Clerk of Circuit Court
Milwaukee County Safety Building
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Fox Lake Correctional Inst.
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Fox Lake, WI 53933-0200

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

2021AP1968-CRNM State of Wisconsin v. Brandon Keith Taylor (L.C. # 2019CF4727)

Before Brash, C.J., Donald, P.J., and Dugan, J.

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).

Brandon Keith Taylor appeals a judgment convicting him of one count of child neglect, one count of unlawfully possessing a firearm after being convicted of a felony, and one count of possession of cocaine with intent to deliver. Attorney Jay R. Pucek was appointed to represent Taylor for appellate proceedings. He filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2019-20),¹ and *Anders v. California*, 386 U.S. 738, 744 (1967). Taylor responded to the report.

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

After considering the no-merit report and the response, and after conducting an independent review of the record as required by *Anders*, we conclude that there are no issues of arguable merit that could be raised on appeal. Therefore, we summarily affirm. See WIS. STAT. RULE 809.21.

The no-merit report first addresses whether there would be arguable merit to a claim that Taylor should be allowed to withdraw his guilty pleas because he did not knowingly, intelligently, and voluntarily enter the same. The circuit court conducted a colloquy with Taylor that complied with WIS. STAT. § 971.08 and *State v. Bangert*, 131 Wis. 2d 246, 266-72, 389 N.W.2d 12 (1986). Prior to the plea hearing, Taylor discussed information pertinent to entering his pleas with his trial counsel, and he reviewed a plea questionnaire and waiver of rights form. See *State v. Moederndorfer*, 141 Wis. 2d 823, 827-28, 416 N.W.2d 627 (Ct. App. 1987) (stating that the circuit court may rely on a plea questionnaire and waiver of rights form in assessing the defendant's knowledge about the rights he or she is waiving). Taylor acknowledged that there was a factual basis to convict him of the crimes. Therefore, there would be no arguable merit to an appellate challenge to his pleas.

The no-merit report next addresses whether there would be arguable merit to a claim that the circuit court erroneously exercised its sentencing discretion when it sentenced Taylor to a total of four years of initial confinement and three and one-half years of extended supervision. The record establishes that the circuit court considered the general objectives of sentencing and applied the sentencing factors to the facts of this case, reaching a reasoned and reasonable result. See *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76 (stating that the circuit court must identify the factors it considered and explain how those factors fit the

sentencing objectives and influenced its sentencing decision). There would be no arguable merit to a challenge to the sentence.

In his response, Taylor argues that the circuit court erred because it did not ensure that he signed his plea questionnaire and waiver of rights form. This argument lacks arguable merit because the circuit court is not required to ensure that a defendant signs a plea questionnaire and waiver of rights form. The plea questionnaire and waiver of rights form is a tool used to help ensure that a defendant is knowingly, intelligently, and voluntarily waiving his or her rights. *See Moederndorfer*, 141 Wis. 2d at 827-28. The circuit court *may* use the form to help it assess whether a defendant understands the rights he or she is waiving, which is exactly what the circuit court did here:

THE COURT: Now, on my computer in front of me is a copy of the plea questionnaire and waiver of rights form which was filed by your attorney. Do you recall reviewing the plea questionnaire and addendum with your lawyer?

THE DEFENDANT: Yes, your Honor.

THE COURT: And did he explain that entire form with you—or to you in a way you understand?

THE DEFENDANT: Yes, your Honor.

THE COURT: Did he answer all questions you may have had about the plea agreement?

THE DEFENDANT: Yes, your Honor.

THE COURT: Now, that form does not contain your signature, and I'm assuming because you and your attorney were not able to meet in person when reviewing the form; is that correct?

THE DEFENDANT: Yes, your Honor.

THE COURT: But is it your intention at this time that you would have signed it if you were given an opportunity to?

THE DEFENDANT: Yes, your Honor.

Then the circuit court questioned Taylor's *counsel* about the plea questionnaire and waiver of rights form, and counsel explained that the reason Taylor did not sign it is because they were meeting virtually when they reviewed the form:

THE COURT: Counsel, did you review the plea questionnaire, addendum, and elements of the offense with Mr. Taylor?

MR. OPLAND-DOBS: Yes, Judge. And for the record, it was over the telephone when Mr. Taylor was in a correctional institution. We did discuss word for word all the materials, and he was unable to sign them because of that circumstance.

THE COURT: Okay. Would you agree with what your attorney said there, sir?

THE DEFENDANT: Yes, your Honor.

The circuit court's exchange with Taylor regarding the form helped the court to assess whether Taylor was validly waiving his rights. There would be no arguable merit to Taylor's claim that the circuit court shirked its duties or otherwise erred because Taylor did not sign the plea questionnaire.

Taylor next argues in his response that the circuit court was required to inform him of his right to a unanimous verdict with respect to his guilt. Taylor acknowledges that this information was provided to him in the plea questionnaire, but insists that this was insufficient because the circuit court may not rely entirely on the plea questionnaire. The plea hearing transcript shows that the circuit court did not rely solely on the plea questionnaire to explain Taylor's constitutional rights. There would be no arguable merit to this claim.

Our review of the record discloses no other potential issues for appeal. Accordingly, we accept the no-merit report, affirm the conviction, and discharge appellate counsel of the obligation to further represent Taylor.

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

IT IS FURTHER ORDERED that Attorney Jay R. Pucek is relieved from further representing Brandon Keith Taylor. *See* 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