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DISTRICT III

September 7, 2022

To:

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

2021AP1769-CRNM State of Wisconsin v. Nicolle M. Wilson
2021AP1770-CRNM (L. C. Nos. 2020CF1227 and 2020CF1228)

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).

Counsel for Nicolle Wilson has filed no-merit reports in these appeals pursuant to WIS. STAT. RULE 809.32 (2019-20),[1] concluding that no grounds exist to challenge Wilson's convictions for wire fraud against a financial institution, money laundering, fraud against a financial institution, and two counts of identity theft.[2] Counsel also asserts that no grounds exist

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

[2] Upon our own motion, we consolidated these appeals for decision by order dated August 8, 2022.

to challenge the orders denying Wilson's postconviction motion for sentence modification. Wilson has filed a response to the no-merit reports raising multiple challenges to her convictions and sentences, and counsel has filed a supplemental no-merit report. Upon our independent review of the records as mandated by ***Anders v. California***, 386 U.S. 738 (1967), we conclude that there is no arguable merit to any issue that could be raised on appeal. Therefore, we summarily affirm the judgments of conviction and the orders denying Wilson's motion for sentence modification. *See* WIS. STAT. RULE 809.21.

In Eau Claire County case No. 2020CF1227, Wilson was charged with four counts: wire fraud against a financial institution, identity theft (financial gain), forgery, and felony bail jumping. According to the criminal complaint, Chelsea,[3] who was a client of Wilson's accounting business, provided her personal information to Wilson so that Wilson could assist Chelsea in applying for a Paycheck Protection Program (PPP) loan for Chelsea's business from CCF Bank. When Chelsea called CCF Bank to inquire about the loan application, she was informed that two PPP loan applications had been submitted under her name—one for her actual business and a second for a Mary Kay independent beauty consultant business. Chelsea had never been associated with Mary Kay and did not direct Wilson to file the second loan application on her behalf. The second loan application included a direct deposit form bearing Chelsea's name and the account number for a UW Credit Union account that Wilson had opened in Chelsea's name without Chelsea's knowledge or authorization. The complaint alleged that

[3] Pursuant to the policy underlying WIS. STAT. RULE 809.86, we use pseudonyms when referring to the victims in these appeals.

Wilson had submitted the second loan application "for the purpose of committing fraud against CCF Bank by obtaining funds through a PPP loan for a business that does not exist."

On the same day that the charges against Wilson were filed in Eau Claire County case No. 2020CF1227, the State filed a second criminal complaint against Wilson in Eau Claire County case No. 2020CF1228. The complaint in that case charged Wilson with fraud against a financial institution (value exceeds $10,000 but does not exceed $100,000), money laundering (knowingly organize/initiate/finance/facilitate) (value exceeds $10,000 but does not exceed $100,000), wire fraud against a financial institution, identity theft (financial gain), forgery, and felony bail jumping.

The charges in case No. 2020CF1228 arose from allegations that Wilson had opened an account at UW Credit Union in the name of another one of her clients, Laura, without Laura's knowledge or authorization. The complaint further alleged that Wilson had taken out a PPP loan in Laura's name from Security Financial Bank in the amount of $72,800 without Laura's consent. Wilson deposited the proceeds from that loan into the UW Credit Union account that she had opened in Laura's name. Wilson then initiated a wire transfer of approximately $69,000 from the UW Credit Union account to an account at Marine Credit Union. Those funds were used to make a payment on a mortgage debt owed by Wilson's boyfriend. Wilson subsequently withdrew an additional $2,800 from the UW Credit Union account and used those funds to pay for an auto loan, shopping expenses, and an Apostle Islands cruise.

The parties ultimately reached an agreement to resolve both case No. 2020CF1227 and case No. 2020CF1228. Under the agreement, Wilson would plead no contest to Counts 1 and 2 in case No. 2020CF1227—i.e., wire fraud against a financial institution and identity theft

(financial gain). In case No. 2020CF1228, Wilson would plead no contest to Counts 1, 2, and 4—i.e., fraud against a financial institution (value exceeds $10,000 but does not exceed $100,000), money laundering (knowingly organize/initiate/finance/facilitate) (value exceeds $10,000 but does not exceed $100,000), and identity theft (financial gain). In exchange for Wilson's no-contest pleas to those charges, the parties agreed that the remaining charges in both cases would be dismissed and read in. The parties also agreed to jointly request a presentence investigation report (PSI).

The circuit court held a plea hearing via Zoom on February 24, 2021. During the hearing, the court conducted a personal colloquy with Wilson, supplemented by a plea questionnaire and waiver of rights form. Following the colloquy, the court accepted Wilson's no-contest pleas, finding that they were knowingly, voluntarily, and intelligently made. The parties agreed that the court could use the facts alleged in the criminal complaints as the factual basis for Wilson's pleas.

Because of a problem with the Zoom technology that was used to conduct the February 24, 2021 plea hearing, the court reporter was unable to transcribe a portion of that hearing. As a result, the circuit court held a second plea hearing on March 12, 2021. During the second plea hearing, the court again conducted a personal colloquy with Wilson, supplemented by a second plea questionnaire and waiver of rights form. Following the colloquy, the court again accepted Wilson's no-contest pleas, once more finding that they were knowingly, intelligently, and voluntarily made. The parties again agreed that the court could use the facts alleged in the criminal complaints as the factual basis for Wilson's pleas, and the court found that an adequate factual basis for the pleas existed.

The circuit court ordered a PSI. In case No. 2020CF1227, the PSI recommended sentences consisting of one to two years of initial confinement followed by one to two years of extended supervision on both Count 1 and Count 2. In case No. 2020CF1228, the PSI recommended two years of initial confinement followed by two years of extended supervision on Count 1, two years of initial confinement followed by two years of extended supervision on Count 2, and one to two years of initial confinement followed by one to two years of extended supervision on Count 4. The PSI did not specify whether these sentences should run concurrently or consecutively to one another.

A sentencing hearing took place on April 8, 2021. At the beginning of the hearing, Wilson's attorney made multiple corrections to the PSI. Both attorneys then presented their sentencing arguments, and Wilson declined to exercise her right of allocution. In case No. 2020CF1228, the circuit court sentenced Wilson to five years of initial confinement followed by five years of extended supervision on Count 1, consecutive to Wilson's sentences in Eau Claire County case No. 2018CF1749 ("the 2018 case"), a case for which Wilson received aggregate sentences totaling five years of initial confinement followed by five years of extended supervision, as well as a consecutive term of five years' probation. On Count 2 in case No. 2020CF1228, the court withheld sentence and placed Wilson on probation for five years, consecutive to her sentence on Count 1. On Count 4 in case No. 2020CF1228, the court sentenced Wilson to three years of initial confinement followed by three years of extended supervision, concurrent to her sentences in the 2018 case.

Turning to case No. 2020CF1227, the circuit court sentenced Wilson to three years of initial confinement followed by three years of extended supervision on Count 1, consecutive to her sentence on Count 4 in case No. 2020CF1228 but concurrent to her sentences in the 2018

case. On Count 2 in case No. 2020CF1227, the court sentenced Wilson to three years of initial confinement followed by three years of extended supervision, consecutive to her sentence on Count 1 in the same case. The court also ordered Wilson to pay $72,800 in restitution to Security Financial Bank in case No. 2020CF1228, plus a ten-percent restitution surcharge.

Wilson filed a postconviction motion for sentence modification. She asked the circuit court to modify her sentences in case Nos. 2020CF1227 and 2020CF1228 "to make all counts run concurrent to [the 2018 case]." She contended this modification would be in the interest of justice because it would result in her being released from prison in her early fifties, rather than at age sixty-four, which would give her "more than a decade to work and repay" her restitution obligations. The State opposed Wilson's motion, and the court summarily denied the motion without a hearing.

The no-merit reports first assert that there are no arguably meritorious grounds to challenge the validity of Wilson's no-contest pleas. Having independently reviewed the records, we agree with counsel's conclusion that this issue lacks arguable merit. The circuit court conducted two plea colloquies, each supplemented by a plea questionnaire and waiver of rights form. During those colloquies, the court confirmed that Wilson understood the elements of the offenses, the penalties that could be imposed, and the constitutional rights that she waived by pleading no contest. The court also confirmed that Wilson was forty-eight years old; that she had over twenty years of education; that she understood the English language; and that she had not consumed any alcohol, medications, or drugs during the last twenty-four hours. The court established that no promises or threats had been made to induce Wilson to enter her pleas. The court also provided the deportation warning required by WIS. STAT. § 971.08(1)(c). The court further confirmed that Wilson had enough time to speak with her attorney and that she was

satisfied with his representation. Finally, the court found that the allegations in the criminal complaints provided an adequate factual basis for Wilson's pleas.

The circuit court did not personally advise Wilson that it was not bound by the terms of the plea agreement, as required by ***State v. Hampton***, 2004 WI 107, ¶2, 274 Wis. 2d 379, 683 N.W.2d 14. However, the court's failure to do so was harmless error because: (1) the plea agreement did not require the parties to make any specific sentence recommendations; and (2) Wilson received each of the benefits to which she was entitled under the plea agreement—namely, the dismissal of the remaining counts in both cases and the parties' joint request for a PSI. *See* ***State v. Johnson***, 2012 WI App 21, ¶14, 339 Wis. 2d 421, 811 N.W.2d 441 (applying harmless error analysis to a circuit court's failure to comply with ***Hampton*** and concluding the error was harmless where the defendant received the benefit of the plea agreement). Under these circumstances, any claim for plea withdrawal on the grounds that the court failed to comply with ***Hampton*** would lack arguable merit.

The no-merit reports also assert that there would be no arguable merit to a claim that the circuit court erroneously exercised its sentencing discretion. Again, we agree with counsel's conclusion in this regard. Before imposing sentences authorized by law, the court explained that the most important objectives of Wilson's sentences were the protection of the public and punishment of Wilson for her crimes. *See* ***State v. Gallion***, 2004 WI 42, ¶41, 270 Wis. 2d 535, 678 N.W.2d 197. The court dismissed rehabilitation as a sentencing goal, expressing skepticism that Wilson would take advantage of (or benefit from) any rehabilitative programming offered in prison. *See* ***id.*** The court also downplayed the payment of restitution as a sentencing objective, acknowledging that it was unlikely Wilson would be able to pay her significant restitution obligations during the remainder of her lifetime. *See* ***id.***

The circuit court also emphasized Wilson's poor character during its sentencing remarks, as evidenced by her criminal record and the fact that she had committed the offenses in these cases at a time when she was awaiting sentencing for similar crimes in the 2018 case. The court viewed the timing of the offenses as showing that Wilson "doesn't care" and has a "certain disregard for the process." The court also stated that Wilson had a "high degree of culpability," characterizing her as a "predator" who "took advantage of people's trust."

The circuit court's sentencing remarks show that it considered appropriate sentencing factors and objectives. Under the circumstances, Wilson's sentences are not "so excessive and unusual" as to shock public sentiment. *See* ***Ocanas v. State***, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). Furthermore, there would be no arguable merit to a claim that the conditions of Wilson's extended supervision were not "reasonable and appropriate." *See* ***State v. Koenig***, 2003 WI App 12, ¶7, 259 Wis. 2d 833, 656 N.W.2d 499 (2002).

Any claim that the circuit court erred by denying Wilson's postconviction motion for sentence modification would also lack arguable merit. Wilson asked the court to modify her sentences on all counts in these cases, in the interest of justice, to make them concurrent to her sentences in the 2018 case. She contended that absent this modification, she would be sixty-four years old when released from prison and would have "almost no working years left," which would make it "very difficult" for her to pay restitution. The State opposed Wilson's motion, noting that the court was well aware of Wilson's age at the time of sentencing and of her expected age at the time of release. The State also argued that Wilson's sentences were not unduly harsh or excessive. After reviewing Wilson's motion for sentence modification and the State's response, the court summarily denied Wilson's motion. Our review of the records does

not reveal any arguable basis to claim that the court erroneously exercised its discretion in that regard.

Wilson raises numerous arguments in her response to the no-merit reports. First, she contends that she should be permitted to withdraw her no-contest pleas for various reasons; however, none of these claims have arguable merit. To withdraw a no-contest plea after sentencing, a defendant must prove, by clear and convincing evidence, that refusal to allow plea withdrawal would result in manifest injustice. ***State v. Taylor***, 2013 WI 34, ¶24, 347 Wis. 2d 30, 829 N.W.2d 482. As relevant here, a defendant may make this showing by establishing that his or her plea was not knowing, intelligent, and voluntary, or by demonstrating that his or her trial attorney was constitutionally ineffective. ***Id.***, ¶¶24, 49.

In her response to the no-merit reports, Wilson contends that she would not have entered no-contest pleas if she had known that her trial attorney, Francis Rivard, "had not had any communication with the District Attorney's office regarding the plea and recommendations." The appellate records belie this assertion. During a hearing on February 2, 2021, Attorney Rivard informed the circuit court that there had been "discussion about resolution," but "[w]e're not there yet." Thereafter, during Wilson's arraignment on February 10, 2021, Attorney Rivard told the court that the parties were "not terribly far apart in resolving these matters." The prosecutor did not dispute either of these assertions or inform the court that the parties had not, in fact, engaged in plea negotiations. Moreover, the appellate records clearly show that the parties did eventually enter into a plea agreement. Under these circumstances,

there would be no arguable merit to a claim that Attorney Rivard was constitutionally ineffective by failing to communicate with the district attorney's office regarding a potential plea deal.[4]

Wilson also asserts that if she had "more communication" with Attorney Rivard and could have given him "more information," she would "never have taken the deal to plead no contest." Wilson does not, however, explain why any alleged deficiencies in Attorney Rivard's communication with her prevented her from making a knowing, intelligent, and voluntary decision to accept the plea deal. Nor does Wilson explain what additional information she would have provided to Attorney Rivard had she been given the opportunity to do so. To the extent Wilson claims that she entered no-contest pleas because Attorney Rivard was "confident" that her sentences in these cases would be concurrent to her sentences in the 2018 case, we note that an attorney's incorrect prediction about the sentence a defendant will receive if he or she accepts a plea deal "is not a basis for an ineffective assistance of counsel claim." ***State v. Provo***, 2004 WI App 97, ¶18, 272 Wis. 2d 837, 681 N.W.2d 272. Furthermore, while Wilson asserts that "there was information that was not provided to [her] to make an educat[ed] decision" about whether to enter no-contest pleas, she does not explain what information she believes should have been provided or how it would have affected her decision whether to accept the plea deal.

[4] Wilson also asserts in her response to the no-merit reports that Attorney Rivard "never received any type of offer from the District Attorney's office other than what charges they wanted me to plea[d] to but nothing regarding time associated with each charge." This assertion is inconsistent with Wilson's claim that Attorney Rivard did not communicate with the district attorney's office regarding the terms of the plea agreement. Moreover, this assertion does not provide an arguable basis for Wilson to withdraw her no-contest pleas. The fact that the *district attorney's office* did not make a plea offer that would have required it to make a particular sentence recommendation does not show that *Attorney Rivard* was ineffective with respect to the plea negotiations. In addition, because Wilson knew at the time she entered her pleas that the State had not agreed to make a specific sentence recommendation, she cannot argue that the lack of a recommendation prevented her from making an informed decision about whether to accept the plea deal.

Wilson also claims that she told Attorney Rivard that she wanted to seek substitution of the circuit court judge because she believed the assigned judge would not be fair and impartial, as he had previously sentenced her in the 2018 case. Wilson contends that Attorney Rivard declined to seek substitution because he believed the assigned judge "would run the sentences concurrent versus consecutive." Attorney Rivard's failure to file a substitution motion does not provide an arguable basis for a claim that he was constitutionally ineffective. A claim of ineffective assistance of counsel for failing to seek or obtain substitution of the circuit court judge cannot succeed without some demonstration that the assigned judge was partial or was fundamentally unfair. *See* ***State v. Damaske***, 212 Wis. 2d 169, 198-99, 567 N.W.2d 905 (Ct. App. 1997). Having independently reviewed the appellate records, we find no support for a claim that the assigned judge in these cases was partial or was fundamentally unfair to Wilson.

Wilson further contends that she should be permitted to withdraw her pleas because the PSI contained inaccuracies. She does not, however, explain why any inaccuracies in the PSI prevented her from making a knowing, intelligent, and voluntary decision to enter no-contest pleas. Additionally, we observe that Attorney Rivard made multiple corrections to the PSI during Wilson's sentencing hearing, and Wilson did not assert at that time that any additional corrections were necessary. Under these circumstances, any argument that Wilson should be permitted to withdraw her pleas based on inaccuracies in the PSI would lack arguable merit.

Wilson also challenges her pleas on the grounds that the circuit court "went way over" the sentence recommendations in the PSI. The court was not required to comply with the PSI's recommendations, however. *See* ***State v. Bizzle***, 222 Wis. 2d 100, 105 n.2, 585 N.W.2d 899 (Ct. App. 1998) (stating that the recommendations in a PSI "are nothing more than recommendations which a court is free to reject"). Moreover, Wilson does not claim that she

believed at the time she entered her pleas that the court could not impose sentences in excess of the PSI's recommendations. Any claim for plea withdrawal on these grounds would therefore lack arguable merit.

Finally, Wilson contends that she is entitled to plea withdrawal because she did not receive a copy of the complaint in case No. 2020CF1227 until after she had entered her no-contest pleas. Again, the appellate records belie this assertion. During the February 24, 2021 plea hearing, the circuit court expressly asked Wilson whether she had "read through the probable cause portion of both Complaints," and Wilson responded in the affirmative. Under these circumstances, any argument that Wilson should be allowed to withdraw her pleas because she did not receive a copy of the complaint in case No. 2020CF1227 would lack arguable merit.[5]

Wilson also raises numerous challenges to the circuit court's exercise of sentencing discretion and to the court's decision to deny her postconviction motion for sentence modification. None of these arguments have arguable merit.

For instance, Wilson claims that her sentences are unfair because "the justice system is very jaded and one-sided when it comes to how people are treated," and "[i]f you are not a drug addict/dealer or an alcoholic you have no chance." She contends that she is aware of two specific Eau Claire County cases "where the individuals received extremely minimal sentences for the offenses" they committed. This claim lacks arguable merit because "[i]ndividualized sentencing" is "a cornerstone to Wisconsin's criminal justice jurisprudence." *See* ***Gallion***, 270

[5] To the extent Wilson intends to argue that the facts alleged in the criminal complaints are inaccurate and that she did not actually commit the crimes to which she pled, we note that a valid no-contest plea waives all nonjurisdictional defects and defenses. *See* ***State v. Lasky***, 2002 WI App 126, ¶11, 254 Wis. 2d 789, 646 N.W.2d 53.

Wis. 2d 535, ¶48. "[N]o two convicted felons stand before the sentencing court on identical footing .... and no two cases will present identical factors." ***Id.*** (alterations in original; citation omitted). The mere fact that defendants in other cases have received lesser sentences than Wilson, without more, does not give rise to an arguably meritorious claim that the circuit court erroneously exercised its discretion when sentencing Wilson.

Wilson next provides a lengthy recitation of facts surrounding her revocation from extended supervision in 2006. In essence, Wilson claims that the 2006 revocation was actually her probation agent's fault and that Wilson did not do anything wrong. Wilson's explanation for the 2006 revocation was contained in the PSI, however. As such, the circuit court would have been aware of Wilson's explanation at the time it sentenced her. Wilson's explanation for the 2006 revocation therefore does not constitute a new factor warranting sentence modification. *See* ***State v. Harbor***, 2011 WI 28, ¶57, 333 Wis. 2d 53, 797 N.W.2d 828 ("A new factor is one that was '*not known to the trial judge* at the time of original sentencing, either because it was not then in existence or because, even though it was then in existence, it was unknowingly overlooked by all of the parties.'" (emphasis added; citation omitted)).

Nor can Wilson show that the circuit court relied on inaccurate information regarding the 2006 revocation when imposing her sentences in these cases. Again, the PSI contained Wilson's explanation for the 2006 revocation. Consequently, Wilson cannot show that the information before the court regarding the 2006 revocation was "extensively and materially false." *See* ***State v. Travis***, 2013 WI 38, ¶18, 347 Wis. 2d 142, 832 N.W.2d 491. Moreover, neither the parties nor the court referred to the 2006 revocation at any point during Wilson's sentencing hearing. As such, Wilson cannot show that the court *actually relied on* any inaccurate information regarding the 2006 revocation when imposing her sentences. *See* ***State v. Tiepelman***, 2006 WI

66, ¶¶14, 26, 291 Wis. 2d 179, 717 N.W.2d 1 (noting that a defendant who requests resentencing due to the circuit court's use of inaccurate information at sentencing must show that the court *actually relied on* the inaccurate information—i.e., that the court gave explicit attention or consideration to the information, such that it formed part of the basis for the sentence).

Wilson further contends that the circuit court "want[ed] a psychological evaluation done," but that service is not available to her in prison. To the extent Wilson intends to argue that her inability to obtain a psychological evaluation is a new factor warranting sentence modification, that claim lacks arguable merit. A new factor must be something that was "highly relevant" to the imposition of the defendant's sentence. ***Harbor***, 333 Wis. 2d 53, ¶40 (citation omitted). In this case, the court ordered Wilson to undergo a psychological evaluation as a condition of her extended supervision, which clearly shows that the court did not expect or intend Wilson to complete the evaluation while in prison. Wilson therefore cannot show that her ability to receive a psychological evaluation while in prison was "highly relevant" to the imposition of her sentences..

Relatedly, Wilson argues that the circuit court "sentenced [her] to prison because the Judge wanted to rehabilitate [her]," but she will not actually receive any rehabilitative programming while in prison because of her low scores on the COMPAS risk assessment. During Wilson's sentencing hearing, however, the court expressly dismissed rehabilitation as a sentencing objective, expressing skepticism that Wilson would take advantage of (or benefit from) any rehabilitative programming offered in prison. Accordingly, Wilson's inability to receive rehabilitative programming does not constitute a new factor warranting sentence modification because the availability of such programming was not "highly relevant" to the imposition of Wilson's sentences. *See* ***id.*** (citation omitted).

Wilson further contends that the circuit court erroneously exercised its sentencing discretion because it failed to consider her character and did not "get to know" her as an individual. There is no support in the appellate records for these claims. The sentencing hearing transcript shows that the court expressly considered Wilson's character and her individual characteristics when imposing her sentences.

Wilson also asserts that her sentences are excessive because they exceed the recommendations contained in a "Bifurcated Sentence Recommendation Grid" promulgated by the Wisconsin Department of Corrections. This claim lacks arguable merit because the circuit court was not bound to follow the Department of Corrections' grid. Again, "[i]ndividualized sentencing" is "a cornerstone to Wisconsin's criminal justice jurisprudence." ***Gallion***, 270 Wis. 2d 535, ¶48. Given the specific circumstances of these cases—including the aggravating factor that Wilson committed these offenses while awaiting sentencing for similar crimes—Wilson's sentences are not "so excessive and unusual" as to shock public sentiment. *See* ***Ocanas***, 70 Wis. 2d at 185.

Wilson additionally contends that she has "signed statements" from Chelsea and Laura, which confirm that they provided Wilson with the information necessary to submit PPP loan applications on their behalf. Wilson asserts that she "wanted to file a Motion for Sentence Modification due to this being a new factor, but [her] appeal lawyer stated that it is not a new factor for purposes of sentence modification or appeal." In the supplemental no-merit report, appellate counsel asserts that Wilson admitted to counsel that Wilson had these statements in her possession before she entered her no-contest pleas. As a result, counsel correctly informed

Wilson that these statements did not constitute a new factor that would support a motion to modify Wilson's sentences.[6] *See* ***Harbor***, 333 Wis. 2d 53, ¶57.

Wilson also asserts that the circuit court erroneously exercised its discretion by declining to place her on probation. She contends that it would be "more productive" for her to be on probation because she would be able to work and would therefore earn money to pay restitution. Under Wisconsin law, "[p]robation should be the disposition unless: confinement is necessary to protect the public, the offender needs correctional treatment available only in confinement, or [probation] would unduly depreciate the seriousness of the offense." ***Gallion***, 270 Wis. 2d 535, ¶44. Here, the court expressly concluded that probation was inappropriate because confinement was needed to protect the public from further criminal activity and because probation would unduly depreciate the seriousness of Wilson's offenses. Moreover, it is clear from the court's sentencing remarks that the court believed protecting the public from Wilson's criminal conduct was more important than facilitating her ability to pay restitution. Under these circumstances, there would be no arguable merit to a claim that the court erroneously exercised its discretion by sentencing Wilson to prison rather than placing her on probation.

Lastly, Wilson asserts that she should not be required to pay restitution because PPP loans are "forgivable," and Laura merely needs to submit the appropriate paperwork in order for

[6] When addressing the circuit court's exercise of sentencing discretion, Wilson also cites other information that she claims shows she did not commit the crimes to which she pled. As noted above, however, a valid no-contest plea waives all nonjurisdictional defects and defenses. *See* ***Lasky***, 254 Wis. 2d 789, ¶11. In addition, because the factual allegations that Wilson now raises would have been known to her at the time of sentencing, but were not brought to the circuit court's attention, she cannot argue that those allegations constitute new factors warranting sentence modification. *See* ***State v. Harbor***, 2011 WI 28, ¶57, 333 Wis. 2d 53, 797 N.W.2d 828. Nor do Wilson's after-the-fact assertions that she did not commit the offenses in question provide an arguable basis to claim that the court relied on inaccurate information or improper factors when sentencing Wilson.

the $72,800 loan from Security Financial Bank to be forgiven. At sentencing, however, a bank representative explained that the bank "did not foresee any forgiveness of this loan" because the funds "were never received by the supposed businesses" for which the loan application was submitted. The bank representative explained that under these circumstances, "there is no paperwork or documentation that we will be presenting like all the other loans for forgiveness, so we will be fully out the $72,800 unless there's some recourse down the road … from [Wilson]." Given the bank representative's assertions, Wilson's argument regarding loan forgiveness lacks arguable merit. Wilson's claim that the circuit court improperly imposed a restitution surcharge also lacks arguable merit, as a ten-percent restitution surcharge is required by statute. *See* WIS. STAT. § 973.06(1)(g).

Our independent review of the records discloses no other potential issues for appeal.

Therefore,

IT IS ORDERED that the judgments and orders are summarily affirmed. WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Annice Kelly is relieved of further representing Nicolle Wilson in these matters. *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