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110 EAST MAIN STREET, SUITE 215  
P.O. BOX 1688  
MADISON, WISCONSIN 53701-1688  
Telephone (608) 266-1880  
TTY: (800) 947-3529  
Facsimile (608) 267-0640  
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**DISTRICT I**

October 4, 2022

To:

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Circuit Court Judge  
Electronic Notice

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Electronic Notice

Winn S. Collins  
Electronic Notice

Urszula Tempska  
Electronic Notice

Jonathan A. Rodriguez 682937  
Kettle Moraine Correctional Inst.  
P.O. Box 282  
Plymouth, WI 53073-0282

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

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2021AP1783-CRNM	State of Wisconsin v. Jonathan A. Rodriguez (L.C. # 2018CF2075)
2021AP1784-CRNM	State of Wisconsin v. Jonathan A. Rodriguez (L.C. # 2018CF3967)

Before Brash, C.J., Donald, P.J., and White, 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).**

In these consolidated appeals, Jonathan A. Rodriguez appeals from judgments of conviction, following guilty pleas, of two counts of manufacturing or delivering cocaine in an amount greater than five grams but less than fifteen grams, one count of possession of cocaine with the intent to deliver near a school, and one count of possession of cocaine in an amount

greater than one gram, but less than five grams, with the intent to deliver.<sup>1</sup> His appellate counsel, Urszula Tempska, has filed a no-merit report pursuant to WIS. STAT. RULE 809.32, and *Anders v. California*, 386 U.S. 738 (1967). Rodriguez received a copy of the report, was advised of his right to file a response, and did not respond. We have independently reviewed the record and the no-merit report as mandated by *Anders*. We conclude that there are no issues of arguable merit that could be pursued on appeal. We therefore summarily affirm.

In Milwaukee County Circuit Court case No. 2018CF2075, the State charged Rodriguez with two counts of manufacturing or delivering a controlled substance (cocaine) in an amount greater than five grams, but less than fifteen grams; one count of possession of cocaine with intent to deliver near a school; and one count of possession of narcotic drugs. According to the criminal complaint, agents from the North Central High Intensity Drug Trafficking Areas Task Force in Milwaukee arranged, observed, recorded, and reported multiple telephone-arranged controlled buys of cocaine in April 2018. The complaint states that confidential informants arranged drug purchases by contacting a phone number affiliated with Rodriguez. The complaint further details police interactions with Rodriguez and a search of Rodriguez's home, in which police seized large amounts of money, cocaine, and drug paraphernalia.

While Rodriguez was out on bail in case No. 2018CF2075, the State charged him in Milwaukee County Circuit Court case No. 2018CF3967 with one count of possession of cocaine with the intent to deliver in an amount greater than one gram but less than five grams, and one

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<sup>1</sup> We consolidated these appeals on our own motion in an order dated September 20, 2022. WIS. STAT. RULE 809.10(3) (2019-20). All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

count of felony bail jumping. The charges stemmed from a police operation involving surveillance of Rodriguez and multiple controlled cocaine purchases.

Rodriguez ultimately entered into a plea agreement with the State in both cases. In case No. 2018CF2075, Rodriguez would plead guilty to the two manufacturing/delivering counts and one count of possession of cocaine with intent to deliver near a school. In exchange, the State would recommend to dismiss and read in the remaining charge. In case No. 2018CF3967, Rodriguez would plead guilty to the possession charge. In exchange, the State would recommend to dismiss and read in the remaining charge. The circuit court conducted a plea hearing on both cases jointly, conducted a colloquy, and accepted Rodriguez's guilty pleas.

The matter proceeded to sentencing. In case No. 2018CF2075, the circuit court sentenced Rodriguez to four years of incarceration on each of the manufacturing/delivering counts, to run concurrent to one another, and four years and six months of incarceration on the possession count, to run consecutive. In case No. 2018CF3967, the circuit court sentenced Rodriguez to an incarceration period of four years and six months consecutive to any other sentence.

Appellate counsel raises three issues in the no-merit report: (1) whether Rodriguez's pleas were valid; (2) whether the circuit court properly exercised its discretion during sentencing; and (3) whether any other non-harmless errors "marred ... Rodriguez's prosecution." (Some capitalization omitted.)

The plea colloquy, together with the plea questionnaire/waiver of rights form and the relevant jury instructions (initialed by Rodriguez), demonstrate Rodriguez's understanding of the information to which he was entitled and that his pleas were knowing, voluntary, and intelligent.

See *State v. Bangert*, 131 Wis. 2d 246, 266-72, 389 N.W.2d 12 (1986); see also *State v. Moederndorfer*, 141 Wis. 2d 823, 827-28, 416 N.W.2d 627 (Ct. App. 1987).

With regard to the circuit court’s sentencing decision, we note that sentencing is a matter for the circuit court’s discretion. See *State v. Gallion*, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197. At sentencing, a court must consider the principal objectives of sentencing, including the protection of the community, the punishment and rehabilitation of the defendant, and deterrence to others. See *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. It must also determine which objective or objectives are of greatest importance. See *Gallion*, 270 Wis. 2d 535, ¶41. In seeking to fulfill the sentencing objectives, the circuit court should consider several primary factors, including the gravity of the offense, the character of the offender, and the protection of the public, as well as additional factors it may wish to consider. See *State v. Odom*, 2006 WI App 145, ¶7, 294 Wis. 2d 844, 720 N.W.2d 695. The weight to be given to each factor is committed to the circuit court’s discretion. See *id.* The record reveals that the circuit court considered and applied the relevant sentencing factors. The resulting sentence was within the potential maximum authorized by law, see *State v. Scaccio*, 2000 WI App 265, ¶18, 240 Wis. 2d 95, 622 N.W.2d 449, and is not so excessive so as to shock the public’s sentiment, see *Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). Therefore, there would be no arguable merit to a challenge to the court’s sentencing discretion.

Upon an independent review of the record, we agree with appellate counsel that there are no errors that “marred ... Rodriguez’s prosecution.” Accordingly, this court accepts the no-merit report, affirms the conviction, and discharges appellate counsel of the obligation to represent Rodriguez further in this appeal.

Therefore upon the foregoing,

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

IT IS FURTHER ORDERED that Attorney Urszula Tempska is relieved of further representing Jonathan A. Rodriguez in this matter. *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*