



OFFICE OF THE CLERK  
**WISCONSIN COURT OF APPEALS**

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  
Web Site: [www.wicourts.gov](http://www.wicourts.gov)

**DISTRICT III**

January 5, 2023

To:

Hon. Jay R. Tlusty  
Circuit Court Judge  
Electronic Notice

Thomas Barker  
Clerk of Circuit Court  
Lincoln County Courthouse  
Electronic Notice

Galen Bayne-Allison  
Electronic Notice

Carl W. Chesshir  
Electronic Notice

Winn S. Collins  
Electronic Notice

Nacole J. Degner  
311 N. Genesee Street  
Merrill, WI 54452

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

---

2020AP1373-CRNM	State of Wisconsin v. Nacole J. Degner
2020AP1374-CRNM	(L. C. Nos. 2017CM120, 2017CM218, 2018CM198, 2019CM23)
2020AP1375-CRNM	
2020AP1376-CRNM	

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

**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 Nacole Degner has filed a no-merit report concluding that no grounds exist to challenge Degner's convictions for two counts of disorderly conduct and three counts of misdemeanor bail jumping, with all but one of each offense as a repeater. Degner was informed of her right to file a response to the no-merit report, and she has not responded. Upon an

---

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

independent review of the records as mandated by *Anders v. California*, 386 U.S. 738 (1967), this court concludes there is no arguable merit to any issue that could be raised on appeal. Therefore, we summarily affirm the judgments of conviction. *See* WIS. STAT. RULE 809.21.

The State charged Degner, in four separate Lincoln County Circuit Court cases, with two counts of disorderly conduct and six counts of misdemeanor bail jumping—with all but one of each of the offenses as a repeater. One of the disorderly conduct charges arose from allegations that Degner entered a home in the City of Merrill, screaming and hysterical, and slapped two of the individuals inside the residence. The other disorderly conduct charge arose from allegations that Degner yelled at customers in a grocery store demanding “Give me my baby” while using her finger in the pocket of her sweatshirt to make the customers think she had a gun. With respect to the bail jumping charges, the State alleged that various conditions of bond were violated.

During pretrial proceedings, the circuit court granted defense counsel’s request for a competency examination. Following an examination and hearing, Degner was found incompetent to proceed. The court, however, ordered a re-examination of Degner in three-month intervals, and, after the first re-examination, Degner was found competent to proceed.

In exchange for her guilty pleas to two counts of disorderly conduct, with one count as a repeater, and three counts of misdemeanor bail jumping, with two counts as repeaters, the State agreed to recommend that the circuit court dismiss and read in the remaining charges in these cases and another case. The State also agreed to join in defense counsel’s recommendation for

withheld sentences and a probationary period of twenty-four months. Out of a maximum possible aggregate sentence of seven years, the court followed the joint recommendation.

Although the no-merit report does not specifically address it, we conclude there is no arguable merit to challenge the circuit court's competency determination. "No person who lacks substantial mental capacity to understand the proceedings or assist in his or her defense may be tried, convicted, or sentenced for the commission of an offense so long as the incapacity endures." *State v. Byrge*, 2000 WI 101, ¶28, 237 Wis. 2d 197, 614 N.W.2d 477 (citation omitted). To determine legal competency, the circuit court considers a defendant's present mental capacity to understand and assist at the time of the proceedings. *Id.*, ¶¶30-31. A circuit court's competency determination should be reversed only when clearly erroneous. *Id.*, ¶46.

An examining psychologist submitted a re-examination report opining to a reasonable degree of professional certainty that Degner did not lack the substantial capacity to understand the charges against her or to assist in her defense, outlining the reasoning behind her opinion. At the competency hearing, Degner did not contest the psychologist's conclusion. Based on the psychologist's report, the circuit court found Degner competent to proceed. The record supports the court's determination.

The no-merit report addresses whether Degner knowingly, intelligently and voluntarily entered her guilty pleas and whether the circuit court properly exercised its sentencing

discretion.<sup>2</sup> Upon reviewing the records, we agree with counsel's analysis and conclusion that there is no arguable merit to these possible issues. The no-merit report sets forth an adequate discussion of these potential issues to support the no-merit conclusion, and this court need not address them further. An independent review of the records discloses no other potential issue for appeal.

Therefore,

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

IT IS FURTHER ORDERED that Attorney Carl W. Chesshir is relieved of his obligation to further represent Nacole Degner 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*

---

<sup>2</sup> We note that although the plea questionnaire form did not specify the maximum sentences for the offenses that were charged as repeaters, the circuit court properly informed Degner of the maximum possible penalties for each offense.