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**DISTRICT I**

January 10, 2023

To:

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Circuit Court Judge  
Electronic Notice

Anna Hodges  
Clerk of Circuit Court  
Milwaukee County Safety Building  
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Annice Kelly  
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Samuel William Brown 603789  
Prairie Du Chien Correctional Inst.  
P.O. Box 9900  
Prairie du Chien, WI 53821

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

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2021AP1498-CRNM      State of Wisconsin v. Samuel William Brown  
(L.C. # 2019CF4883)

Before Brash, C.J., Dugan and White, 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).**

Samuel William Brown appeals the judgment entered after he pled guilty to second-degree recklessly endangering safety. His appellate counsel, Annice M. Kelly, filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2019-20) and *Anders v. California*, 386 U.S. 738 (1967).<sup>1</sup> Brown was advised of his right to file a response and has elected not to do so. Upon consideration of the report and an independent review of the record, we conclude that the

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

judgment may be summarily affirmed because there is no arguable merit to any issue that could be raised on appeal. *See* WIS. STAT. RULE 809.21.

According to the complaint, police officers who were on patrol in a marked squad car, heard that a 2019 gray Hyundai Santa Fe had fled from a traffic stop. The officers subsequently saw a vehicle matching that description drive down an alley and park. One of the officers exited the squad car and approached the vehicle, which promptly reversed toward the squad car and drove off. The officers pursued the Santa Fe, activating their squad car's lights and sirens. The Santa Fe did not pull over and instead, increased its speed to approximately eighty to ninety miles per hour at its fastest. The officers saw the Santa Fe run a red light prior to striking a car. The force of the collision sent the car that was hit crashing into a bus shelter. The driver of that car had to be extricated with heavy equipment, but was uninjured.

Following the crash, the officers saw Brown exit the Santa Fe and run on foot through a parking lot. Uniformed officers ran after him yelling "Stop! Police!" Eventually they apprehended Brown. The police officers found crack cocaine in the Santa Fe. The complaint additionally alleged that Brown was on supervision at the time of the crimes.

Pursuant to a plea agreement, Brown pled guilty to second-degree recklessly endangering safety. In exchange, the State agreed to dismiss, but read in the charge of fleeing or eluding an officer. The State additionally agreed to recommend that Brown serve four to five years of initial confinement and five years of extended supervision, to run concurrently to any other sentence Brown was serving.

The circuit court accepted Brown's plea and sentenced him to four and one-half years of initial confinement and five years of extended supervision. The circuit court ordered the sentence to run concurrently with Brown's revocation sentence.<sup>2</sup> This no-merit appeal follows.

The no-merit report addresses the validity of Brown's plea. See *State v. Bangert*, 131 Wis. 2d 246, 260, 389 N.W.2d 12 (1986). Our review of the record and of counsel's analysis in the no-merit report satisfies us that the circuit court complied with its obligations for taking a guilty plea, pursuant to WIS. STAT. § 971.08, *Bangert*, 131 Wis. 2d at 261-62, and *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906. There would be no arguable merit to a claim that Brown's plea was not knowingly, intelligently, and voluntarily entered.

The no-merit report additionally addresses whether there would be arguable merit to a claim that the circuit court erroneously exercised its sentencing 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, *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76, and determine which objective or objectives are of greatest importance, see *Gallion*, 270 Wis. 2d 535, ¶41. In seeking to fulfill the sentencing objectives, the court should consider primary factors including the gravity of the offense, the character of the offender, and the protection of the public, and may consider other additional factors. 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 *Ziegler*, 289

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<sup>2</sup> The Honorable Mark A. Sanders presided over the plea hearing. The Honorable David L. Borowski sentenced Brown.

Wis. 2d 594, ¶23. We will sustain a circuit court’s exercise of sentencing discretion if the sentence imposed was one that a reasonable judge might impose, even if this court or another judge might have imposed a different sentence. *See Odom*, 294 Wis. 2d 844, ¶8. Here, the circuit court appropriately considered relevant sentencing objectives and factors, and imposed a reasonable sentence. There would be no arguable merit to a challenge to the court’s sentencing discretion.

Our review of the record discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit report, affirms the judgment, and discharges appellate counsel of the obligation to represent Brown further in this appeal.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Annice M. Kelly is relieved from further representing Samuel William Brown in this appeal. *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*