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**DISTRICT II**

March 15, 2023

To:

Hon. Jason A. Rossell  
Circuit Court Judge  
Electronic Notice

Mark S. Rosen  
Electronic Notice

Rebecca Matoska-Mentink  
Clerk of Circuit Court  
Kenosha County Courthouse  
Electronic Notice

Scott R. Haun, #00257510  
Waupun Correctional Inst.  
P.O. Box 351  
Waupun, WI 53963-0351

Winn S. Collins  
Electronic Notice

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

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2022AP483-CRNM	State of Wisconsin v. Scott R. Haun (L.C. #2019CF926)
2022AP484-CRNM	State of Wisconsin v. Scott R. Haun (L.C. #2019CF983)

Before Gundrum, P.J., Neubauer and Grogan, 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).**

In these consolidated appeals, Scott R. Haun appeals judgments of conviction for delivery of less than three grams of heroin as a repeater and for two counts of armed robbery by threat of force as a party to a crime and as a repeater (both as a habitual criminal and as a serious violent crime offender). Haun's appointed appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2021-22)<sup>1</sup> and *Anders v. California*, 386 U.S. 738 (1967). Haun was

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

advised of his right to file a response but has not done so. Upon consideration of the no-merit report and our independent review of the record as mandated by *Anders*, we conclude there is no issue of arguable merit that could be raised on appeal. We therefore summarily affirm the judgments of conviction. *See* WIS. STAT. RULE 809.21(1).

Haun was charged in Kenosha County Circuit Court case No. 2019CF926 with three counts of delivery of heroin as a repeater based upon confidential informant buys in January and February 2019. Separately, a series of four retail robberies involving the threatened use of a knife occurred between August 1 and August 4, 2019, in the City of Kenosha. Police investigators believed a silver car had been used as a getaway vehicle in the robberies and located the suspect vehicle in the vicinity of Morelli's Deli immediately following the August 4 robbery (the second robbery involving that location). The vehicle's driver, Daniel Wells, admitted to transporting his passenger, Haun, to commit each of the robberies. Haun was charged in Kenosha County Circuit Court case No. 2019CF983 with four counts of being a party to a crime of armed robbery by threat of force, both as a habitual criminal and as a repeat serious violent crime offender.<sup>2</sup>

The parties reached a global plea agreement resolving both cases. Haun agreed to plead guilty in case No. 2019CF926 to one count of delivery of heroin as a repeater. He agreed to plead guilty in case No. 2019CF983 to the first and second armed robbery counts as a party to a crime, both as a habitual criminal and as a repeat serious violent crime offender. The remaining counts in both cases were to be dismissed and read in. The State agreed to recommend prison,

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<sup>2</sup> Wells was initially charged as a codefendant but the charges against him were subsequently severed.

with no specific recommendation as to the length. After a plea colloquy, the circuit court accepted Haun's pleas and adjudged him guilty of the three crimes.

Haun had been revoked from extended supervision in a prior case, and the circuit court ordered a presentence investigation report. The sentencing occurred over the course of two hearings as a result of technical difficulties with the video-conferencing application.<sup>3</sup> The court ultimately sentenced Haun to six years' initial confinement and five years' extended supervision on the drug conviction, with sentences of thirteen years' initial confinement and ten years' extended supervision on each of the armed robbery counts. Each sentence was ordered to run concurrent to one another but consecutive to the revocation sentence.

The no-merit report addresses whether Haun could raise nonfrivolous arguments related to: (1) the sufficiency of the plea colloquy; (2) whether his plea was knowing, intelligent, and voluntary; and (3) whether the circuit court properly exercised its sentencing discretion. Our review of the appellate record satisfies us that the no-merit report sufficiently analyzes these issues and properly concludes that any challenge based upon them would lack arguable merit.<sup>4</sup> Our review of the appellate record discloses no other potentially meritorious issues for appeal.

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<sup>3</sup> At all relevant hearings, Haun was advised of his right to appear in person and consented to his appearance by video.

<sup>4</sup> The circuit court did not specifically advise Haun during the plea colloquy that it was not bound by the plea agreement. *See State v. Hampton*, 2004 WI 107, ¶20, 274 Wis. 2d 379, 683 N.W.2d 14. However, we conclude there is no arguable merit to an assertion that Haun's pleas were not knowing, intelligent, and voluntary on this basis. The plea questionnaire and waiver of rights form, which the court verified that Haun had reviewed with his attorney, contained that information. And the plea colloquy included a thorough discussion of the maximum penalties for the offenses to which Haun was pleading guilty.

(continued)

Based on the foregoing,

IT IS ORDERED that the judgments of conviction are summarily affirmed. *See* WIS. STAT. RULE 809.21(2).

IT IS FURTHER ORDERED that Attorney Mark S. Rosen is relieved of responsibility for further representation of Scott R. Haun in these appeals. *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*

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We might have more difficulty on this point if the prosecutor had promised to make a specific sentencing recommendation, in which case it would have been important for Haun to know when entering his pleas that the circuit court could deviate from that. But the State agreed to do nothing more than recommend an unspecified prison term. The promise by the State not to endorse a specific length for the its prison recommendation was no doubt valuable to Haun, but its promise to recommend prison generally was irrelevant. Haun was already subject to mandatory minimum five-year prison terms on the armed robbery offenses by virtue of a prior armed robbery conviction. *See* WIS. STAT. § 939.619(2) (2019-20) (requiring mandatory minimum for repeat serious violent crimes). That matter, as well as the penalty enhancer under WIS. STAT. § 939.62 (2019-20) applicable to all of the offenses, was discussed as part of the plea colloquy, during which Haun admitted to the existence of the prior qualifying convictions.

