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**DISTRICT III**

October 24, 2023

To:

Hon. Jay N. Conley  
Circuit Court Judge  
Electronic Notice

Barb Bocik  
Clerk of Circuit Court  
Outagamie County Courthouse  
Electronic Notice

Erica L. Bauer  
Electronic Notice

Jennifer L. Vandermeuse  
Electronic Notice

Henry M. Nellum 444091  
Jackson Correctional Inst.  
P.O. Box 233  
Black River Falls, WI 54615-0233

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

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2022AP596-CRNM      State of Wisconsin v. Henry M. Nellum (L. C. No. 2017CF411)

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).**

Henry Nellum appeals from a judgment convicting him of felony murder and four related charges. Attorney Erica Bauer has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2021-22).<sup>1</sup> Nellum was informed of his right to respond to the no-merit report, but he has not filed a response. Having independently reviewed the entire record as mandated by *Anders v. California*, 386 U.S. 738, 744 (1967), we conclude that there are no arguably meritorious issues for appeal.

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

The charges in this case all arose out of an incident in which Nellum fired a gun at a man and dislocated the man's shoulder during a bar fight. A responding police officer then shot at Nellum but inadvertently killed a bystander. The State charged Nellum in an amended complaint with attempted first-degree intentional homicide, felony murder, first-degree reckless endangerment, possession of a firearm by a felon, attempted aggravated battery, possession of a firearm while intoxicated, carrying a concealed weapon, and disorderly conduct. Nellum eventually pled guilty<sup>2</sup> to further amended charges of first-degree reckless endangerment, felony murder with use of a dangerous weapon, possession of a firearm by a felon, possession of a firearm while intoxicated, and carrying a concealed weapon. The circuit court accepted Nellum's pleas after conducting a plea colloquy, reviewing Nellum's signed plea questionnaire, and ascertaining that there was a factual basis to support the pleas.

The circuit court ordered a presentence investigation report (PSI) and subsequently held a sentencing hearing. After hearing from the parties and reviewing the PSI and victim impact statements, the court discussed factors related to the severity of the offenses and Nellum's character, and it explained how they related to the court's primary sentencing goal of protecting the public from gun violence and its secondary sentencing goal of punishment.

The circuit court sentenced Nellum to concurrent terms of five years' initial confinement followed by five years' extended supervision on the count of possession of a firearm by a felon, and nine months of confinement each on the counts of possession of a firearm while intoxicated and carrying a concealed weapon. The court then sentenced Nellum to seven and one-half years'

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<sup>2</sup> Although the judgment of conviction states that Nellum pled no contest, the transcript shows that he entered a guilty plea to each charge. We will direct the judgment to be amended accordingly.

initial confinement followed by five years' extended supervision on the reckless endangerment count, and eleven and one-half years' initial confinement followed by seven and one-half years' extended supervision on the felony murder count, to be served concurrent to each other but consecutive to the other three counts. The court awarded 1,219 days of sentence credit to be applied to the three concurrent firearm sentences.

The no-merit report discusses the procedural posture of the case and trial counsel's performance, and it addresses the validity of the pleas and sentences. Upon reviewing the record, we agree with counsel's conclusion that Nellum has no arguably meritorious basis to challenge the pleas, the sentences, or trial counsel's performance. We further note that Nellum's pleas forfeited the right to raise other nonjurisdictional defects and defenses (with some exceptions not relevant here), including any challenge to his warrantless arrest or bindover. *See State v. Kelty*, 2006 WI 101, ¶¶18 & n.11, 34, 294 Wis. 2d 62, 716 N.W.2d 886. Our independent review of the record discloses no other potential issues for appeal. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders*. Accordingly, counsel shall be allowed to withdraw, and the judgment of conviction will be summarily affirmed. *See* WIS. STAT. RULE 809.21.

Upon the foregoing,

IT IS ORDERED that the judgment of conviction shall be amended to show that the defendant entered a plea of guilty to each charge. As amended, the judgment is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Erica Bauer is relieved of any further representation of Henry Nellum in this matter pursuant to WIS. STAT. RULE 809.32(3).

IT IS FURTHER ORDERED that this summary disposition order will not be published.

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*Samuel A. Christensen*  
*Clerk of Court of Appeals*