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**DISTRICT I**

November 21, 2023

To:

Hon. Danielle L. Shelton  
Circuit Court Judge  
Electronic Notice

Katie Babe  
Electronic Notice

Anna Hodges  
Clerk of Circuit Court  
Milwaukee County Safety Building  
Electronic Notice

Jennifer L. Vandermeuse  
Electronic Notice

James Maceo Sewell Jr.  
4684 North 49th Street  
Milwaukee, WI 53218

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

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2022AP1724-CRNM      State of Wisconsin v. James Maceo Sewell, Jr.  
(L.C. # 2021CF1379)

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

James Maceo Sewell, Jr., appeals the judgment entered after he pled guilty to possessing a firearm as a felon and as a repeater. His appellate counsel, Katie Babe, filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2021-22) and *Anders v. California*, 386 U.S. 738 (1967).<sup>1</sup> Sewell 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 2021-22 version unless otherwise noted.

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

The State charged Sewell with possessing a firearm as a felon and resisting an officer, both as a repeater. According to the complaint, C.W. called and reported that she feared for her safety after she and Sewell had an argument. Responding officers met with C.W. and as they were returning to their marked squad cars, they saw a vehicle matching the description of Sewell's vehicle nearby. The officers initiated a traffic stop. The vehicle abruptly stopped and Sewell got out. After he had exited the vehicle, Sewell turned his body toward the vehicle and stuck his hand through the driver's side window. As the officers attempted to take Sewell into custody, he locked the vehicle, turned away from them, and stiffened his arm. Eventually he was taken into custody, and when the police searched Sewell's vehicle, they found a loaded handgun. In an interview, Sewell told officers he knew he was a felon and could not have a firearm. The complaint alleged that Sewell was convicted in 2010 of robbery with use of force, which was a felony. To support the repeater penalty enhancer, the complaint further alleged that Sewell was convicted in 2018 for felony charges of possession with intent to distribute cocaine and heroin.

The State later dropped the charge for resisting an officer. Pursuant to a plea agreement, Sewell pled guilty to possessing a firearm as a felon and as a repeater. The parties agreed to jointly recommend that the circuit court sentence Sewell to eighteen months of initial confinement and twenty-four months of extended supervision to run concurrently with a revocation sentence Sewell was serving. The circuit court accepted Sewell's plea and followed the parties' sentencing recommendation. The circuit court awarded Sewell 158 days of sentence credit.

The circuit court made Sewell eligible for both the Challenge Incarceration Program and the Substance Abuse Program (SAP). Sewell successfully completed SAP and, according to the no-merit report, on August 30, 2022, he was released on extended supervision. This no-merit appeal follows.

The no-merit report addresses whether there would be arguable merit to a claim that Sewell's guilty plea was not knowingly and voluntarily entered. *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 Sewell'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. 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, *Gallion*, 270 Wis. 2d 535, ¶41. The weight to be given to each factor is committed to the circuit court's discretion. *Ziegler*, 289 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. *State v. Odom*, 2006 WI App 145, ¶8, 294 Wis. 2d 844, 720 N.W.2d 695. Our review of the record and counsel's analysis in the no-merit report confirms that the circuit

court considered relevant sentencing objectives and factors and imposed a reasonable sentence.<sup>2</sup> There would be no arguable merit to a challenge to the court's sentencing discretion.

Lastly, the no-merit report addresses whether the circuit court properly calculated Sewell's 158 days of sentence credit. We agree with counsel's assessment that, in accordance with *State v. Davis*, 2017 WI App 55, ¶¶8-10, 377 Wis. 2d 678, 901 N.W.2d 488, the circuit court properly ruled that Sewell was not entitled to additional credit for confinement time he served after he was received at Dodge Correctional Institution in order to serve his revocation sentence.

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 Sewell further in this appeal.

Upon the foregoing reasons,

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

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<sup>2</sup> The no-merit report points out that during sentencing, the State recited the parties' joint recommendation as consisting of eighteen months of initial confinement and fourteen months of extended supervision. The fourteen months was a misstatement. The plea questionnaire reflects that the parties' joint recommendation as to extended supervision was for twenty-four months. The circuit court followed the recommendation detailed on the plea questionnaire.

IT IS FURTHER ORDERED that Attorney Katie Babe is relieved from further representing James Maceo Sewell, Jr., in this appeal. 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*