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**DISTRICT I**

December 5, 2023

To:

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Willie Anthony Watson 422179  
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P.O. Box 19033  
Green Bay, WI 54307-9033

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

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2023AP219-CRNM      State of Wisconsin v. Willie Anthony Watson  
(L.C. # 2020CF2414)

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).**

Willie Anthony Watson appeals his judgment of conviction entered after he pled guilty to first-degree reckless homicide. His appellate counsel, Attorney Marcella De Peters, has filed a no-merit report pursuant to *Anders v. California*, 386 U.S. 738 (1967) and WIS. STAT. RULE 809.32 (2021-22).<sup>1</sup> Watson received a copy of the report and was advised of his right to file a response, but he did not do so. Upon this court's independent review of the record as

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

mandated by *Anders* and counsel's report, we conclude there are no issues of arguable merit that could be pursued on appeal. We therefore summarily affirm.

Watson was charged in July 2020 with felony murder while committing armed robbery and being a felon in possession of a firearm, both as a party to a crime, in the shooting death of D.R.K. Watson, along with his codefendant, Jonathan E. Hayes, took D.R.K.'s firearm that he was lawfully carrying, along with other items. Watson then shot D.R.K. in the back when he was likely trying to escape. The charges against Watson were subsequently amended to first-degree reckless homicide with the use of a dangerous weapon, armed robbery with the use of force as a party to a crime, and being a felon in possession of a firearm.

Watson chose to resolve this matter with a plea. He pled guilty to first-degree reckless homicide, with the dangerous weapon enhancer dismissed outright. The other two charges were dismissed but read in for sentencing purposes. The circuit court accepted Watson's plea and sentenced him to thirty years of initial confinement to be followed by twelve years of extended supervision. This no-merit appeal follows.

In the no-merit report, appellate counsel addresses two issues: whether there would be arguable merit to appealing the validity of Watson's plea; and whether there would be arguable merit to a claim that the circuit court erroneously exercised its discretion in sentencing Watson. We agree with appellate counsel's analysis that there would be no arguable merit to an appeal of either of these issues.

A plea must be knowingly, voluntarily, and intelligently entered. *State v. Brown*, 2006 WI 100, ¶18, 293 Wis. 2d 594, 716 N.W.2d 906. With regard to Watson's plea, the plea colloquy by the circuit court substantially complied with the requirements set forth in WIS. STAT.

§ 971.08 and *Brown*, 293 Wis. 2d 594, ¶35. The court also confirmed that Watson signed and understood the plea questionnaire and waiver of rights form, which further demonstrates that Watson’s plea was knowingly, voluntarily, and intelligently entered. See *State v. Moederndorfer*, 141 Wis. 2d 823, 827, 416 N.W.2d 627 (Ct. App. 1987).

However, during the plea colloquy, the circuit court neglected to “advise [Watson] personally that the terms of the plea agreement, including [the] prosecutor’s recommendations, are not binding on the court,” as required by *State v. Hampton*, 2004 WI 107, ¶38, 274 Wis. 2d 379, 683 N.W.2d 14. This warning informs the defendant that the circuit court is not obligated to accept the State’s charging concessions, sentence recommendations, or any other terms of the plea agreement. *Id.*, ¶32.

While the omission of the *Hampton* warning presents a *prima facie* *Bangert*<sup>2</sup> violation, no issue of arguable merit arises from the defect in this case. To withdraw a guilty plea after sentencing, a defendant must show that withdrawal is necessary to correct a manifest injustice. *Brown*, 293 Wis. 2d 594, ¶18. Here, the circuit court accepted the charging concessions contemplated, so Watson was not affected by the defect in the colloquy, and thus cannot show that plea withdrawal is necessary to correct a manifest injustice. See *State v. Johnson*, 2012 WI App 21, ¶12, 339 Wis. 2d 421, 811 N.W.2d 441; see also *State v. Cross*, 2010 WI 70, ¶32, 326 Wis. 2d 492, 786 N.W.2d 64 (“[R]equiring an evidentiary hearing for every small deviation from the circuit court’s duties during a plea colloquy is simply not necessary for the protection of a defendant’s constitutional rights.”).

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<sup>2</sup> *State v. Bangert*, 131 Wis. 2d 246, 389 N.W.2d 12 (1986).

Based on the foregoing, we are satisfied that the record establishes Watson's plea was knowing, intelligent, and voluntary. There is no arguable merit to a challenge to the plea's validity.

Turning to Watson's sentencing, a circuit court acts within its discretion when it considers relevant sentencing objectives and factors, including the protection of the community, punishment and rehabilitation of the defendant, and deterrence to others. *State v. Gallion*, 2004 WI 42, ¶¶17, 40, 270 Wis. 2d 535, 678 N.W.2d 197; *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. The record here reflects that the circuit court did consider the relevant objectives and factors. In particular, the court observed that D.R.K. was shot in the back and was "completely blameless" in the incident, calling it a "senseless" crime. The court also noted that Watson was known to wear a "huge" firearm on a lanyard around his neck, even though he was a convicted felon and not permitted to possess one.

Furthermore, the forty-two-year sentence imposed by the circuit court is within the statutory maximum of sixty years. WIS. STAT. §§ 940.02(1); 939.50(3)(b) (2019-20). A sentence within the statutory range is presumptively not unduly harsh or unconscionable. *State v. Grindemann*, 2002 WI App 106, ¶32, 255 Wis. 2d 632, 648 N.W.2d 507. We therefore agree with appellate counsel's assessment that there would be no arguable merit to a challenge of Watson's sentence.

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

Upon the foregoing,

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

IT IS FURTHER ORDERED that Attorney Marcella De Peters is relieved of further representation of Willie Anthony Watson in this matter. *See* 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*