

## OFFICE OF THE CLERK WISCONSIN COURT OF APPEALS

110 East Main Street, Suite 215 P.O. Box 1688

Madison, Wisconsin 53701-1688

Telephone (608) 266-1880 TTY: (800) 947-3529 Facsimile (608) 267-0640 Web Site: www.wicourts.gov

## **DISTRICT III**

December 12, 2023

*To*:

Hon. Michael H. Bloom Circuit Court Judge Electronic Notice

Brenda Behrle Clerk of Circuit Court Oneida County Courthouse Electronic Notice

Kirk D. Henley Electronic Notice Jennifer L. Vandermeuse Electronic Notice

Michael J. Steinmetz Jr. 334612 Gordon Corr. Center 10401 E. Cty. Rd. G Gordon, WI 54838

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

2022AP1185-CRNM State of Wisconsin v. Michael J. Steinmetz, Jr. (L. C. No. 2021CF9)

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).

Michael Steinmetz appeals from a judgment convicting him of a fifth offense of operating a motor vehicle with a prohibited alcohol concentration (PAC). Attorney Kirk Henley has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2021-22). Steinmetz 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

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

Anders v. California, 386 U.S. 738, 744 (1967), we conclude that there are no arguably meritorious issues for appeal.

The State charged Steinmetz with operating a motor vehicle while intoxicated (OWI) and operating with prohibited alcohol concentration (PAC) (each as fifth or sixth offense)<sup>2</sup> after Steinmetz drove a car into a ditch and the responding tow truck driver notified police that Steinmetz appeared intoxicated. Steinmetz agreed to plead no contest to the PAC count with the freedom to argue for the mandatory minimum sentence of one year of initial confinement, a \$600 fine, and a lifetime revocation of his driver's license in exchange for the State's recommendation of the presumptive minimum sentence of eighteen months' initial confinement followed by eighteen months' extended supervision. The circuit court accepted Steinmetz's plea after conducting a plea colloquy, reviewing Steinmetz's signed plea questionnaire, and ascertaining that there was a factual basis to support the plea—including that Steinmetz had four prior OWI convictions.

The circuit court subsequently held a sentencing hearing at which Steinmetz presented testimony and several letters from character witnesses, and the parties each recommended sentences in accordance with the plea agreement. After hearing from the parties, the court discussed Steinmetz's character at length and explained why it could not conclude that deviating downward from the presumptive minimum sentence would serve the public interest. The court then imposed eighteen months' initial confinement followed by eighteen months' extended

<sup>&</sup>lt;sup>2</sup> The OWI count was dismissed in an amended Information and is not at issue on this appeal.

No. 2022AP1185-CRNM

supervision, with seventy-seven days of sentence credit, a fine of \$600, and a lifetime revocation

of Steinmetz's driver's license.

Upon reviewing the record, we agree with counsel's discussion and conclusion that

Steinmentz has no arguably meritorious basis to challenge either his plea or sentence. 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.

Therefore,

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

IT IS FURTHER ORDERED that Attorney Kirk D. Henley is relieved of further

representation of Michael J. Steinmetz, Jr., in this matter. See Wis. STAT. Rule 809.32(3).

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

Samuel A. Christensen Clerk of Court of Appeals

3