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**DISTRICT II**

October 2, 2024

To:

Hon. Jennifer R. Dorow  
Circuit Court Judge  
Electronic Notice

Jill Marie Skwor  
Electronic Notice

Monica Paz  
Clerk of Circuit Court  
Waukesha County Courthouse  
Electronic Notice

Jennifer L. Vandermeuse  
Electronic Notice

Kevin R. Albrecht  
7301 W. Tripoli Ave., Apt. 1  
Milwaukee, WI 53220

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

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2023AP975-CRNM      State of Wisconsin v. Kevin R. Albrecht (L.C. #2020CF631)

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

Kevin R. Albrecht appeals from a judgment convicting him of operating with a prohibited alcohol concentration (PAC) as a fifth offense. His appellate counsel 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). Albrecht filed a response. After reviewing the Record, counsel's report, and Albrecht's response, we conclude there are no issues with arguable merit for appeal. Therefore, we summarily affirm the judgment. *See* WIS. STAT. RULE 809.21.

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

Albrecht was convicted following a no contest plea to operating with a PAC as a fifth offense. He was stopped for speeding and, based upon his subsequent interaction with a police officer, eventually arrested for operating with a PAC over 0.02. For his actions, the circuit court imposed a sentence of one and a half years of initial confinement and one year of extended supervision. It also imposed a fine of \$600 plus fees/costs.

Prior to entering his plea, Albrecht filed a motion to suppress, arguing that the police officer who stopped him lacked probable cause to request that he submit to a preliminary breath test (PBT).<sup>2</sup> After a hearing on the matter, the circuit court denied the motion. The court concluded that the officer's action was lawful based upon Albrecht's visual signs of impairment (e.g., glassy eyes, slightly slurred speech), his admission to having consumed four beers, and the officer's knowledge that Albrecht was subject to an alcohol restriction of 0.02 due to his prior convictions for operating while intoxicated.

The no-merit report addresses: (1) whether the circuit court properly denied Albrecht's motion to suppress; (2) whether Albrecht's plea was knowingly, voluntarily, and intelligently entered and had a factual basis; and (3) whether the circuit court properly exercised its discretion at sentencing. This court is satisfied that the no-merit report correctly analyzes the issues it raises as without merit, and we will not discuss them further.

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<sup>2</sup> The PBT, which was administered before Albrecht's arrest, revealed a breath alcohol reading of 0.076.

As noted, Albrecht filed a response to counsel’s no-merit report. In it, he complains that his trial counsel ignored unspecified questions he had about the case. He also complains that there was no proof he was speeding other than the police officer “saying” that he was.<sup>3</sup>

We are not persuaded that Albrecht’s response presents an issue of arguable merit. At the plea hearing, Albrecht indicated that his trial counsel had done a “wonderful job” and that there was nothing about the hearing he did not understand. Moreover, by entering his plea, Albrecht forfeited the right to challenge the traffic stop.<sup>4</sup> See *State v. Kelty*, 2006 WI 101, ¶18 & n.11, 294 Wis. 2d 62, 716 N.W.2d 886.

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

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<sup>3</sup> According to the complaint, the police officer used radar to detect Albrecht’s vehicle traveling fifty-five miles per hour in a thirty-five miles-per-hour zone.

<sup>4</sup> Trial counsel specifically addressed this subject at the plea hearing. He told the circuit court:

I advised [Albrecht] that by pleading no contest, we’re not gonna be filing any additional pretrial motions in this case, challenging the traffic stop.

We already filed and litigated a motion on the issue of whether there was probable cause to [request that Albrecht submit to a PBT].

And I don’t know if you recall all of that, and so we had another conversation today about the traffic stop. I gave him my conclusions and opinions about the merits of such a motion, and he came to the conclusion that he wanted to enter a no contest plea to the single charge in the criminal complaint.

But I want the record to be clear that we had that conversation, and by entering the no contest plea, he’d be giving up his right to challenge the reason for the traffic stop because he’d be waiving that particular issue, so I wanted to make that record, Judge.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Jill Marie Skwor is relieved of further representation of Kevin R. Albrecht in this appeal. *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*