

initial confinement and seven years of extended supervision. The circuit court also ordered Doman to pay restitution of \$2,756. Doman appeals.

Appellate counsel, Attorney Andrea Taylor Cornwall, filed a no-merit report pursuant to *Anders v. California*, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32. Doman did not file a response. Upon our review of the no-merit report and the record, we conclude that no arguably meritorious issues exist for an appeal, and we summarily affirm. *See* WIS. STAT. RULE 809.21.

The criminal complaint reflects that Doman stabbed and killed an acquaintance after an argument. According to one of Doman's neighbors, Doman said he "killed [the victim] and [was] going to jail." A second neighbor described Doman saying: "[the victim] charged me so I stabbed him." An autopsy revealed that the victim was stabbed ten times and died from loss of blood.

The State charged Doman with first-degree reckless homicide while armed and later filed an amended information charging Doman with first-degree intentional homicide while armed. On the day set for trial, Doman decided to resolve the case with a plea bargain.

Doman could not pursue a meritorious challenge to his guilty plea. At the start of the plea proceeding, the State filed a second amended information charging Doman with second-degree reckless homicide while using a dangerous weapon. The State then described the terms of the parties' plea bargain, explaining that Doman would plead guilty to the amended charge, and the State would recommend a twenty-seven-year term of imprisonment bifurcated as twenty years of initial confinement and seven years of extended supervision. Doman was free to argue for a different disposition. Doman said that he understood the terms of the plea bargain.

The circuit court explained that Doman faced a thirty-year term of imprisonment and a \$100,000 fine upon conviction of the amended charge. *See* WIS. STAT. §§ 940.06(1), 939.63(1)(b), 939.50(3)(d). The circuit court told Doman that it could impose the maximum statutory penalties if it chose to do so and that it was not bound by the terms of the plea bargain or by any party's sentencing recommendation. Doman said that he understood. The circuit court explained the elements of the crime on the record. Doman said that he had discussed the elements with his attorney and that he understood the elements.

The record contains a signed guilty plea questionnaire and waiver of rights form with a signed addendum. The questionnaire reflects that Doman had completed high school and one year of college and that he understood the charge he faced, the rights he waived by pleading guilty, and the penalties that the circuit court could impose. The addendum reflects Doman's acknowledgment that by pleading guilty he would give up his rights to raise defenses, to challenge the validity of his arrest, and to seek suppression of his statements and other evidence. Doman told the circuit court that he had reviewed the forms with his attorney and that he understood them.

The circuit court told Doman that by pleading guilty he would give up the constitutional rights listed on the guilty plea questionnaire, and the circuit court reviewed his rights. Doman said that he understood. Additionally, the circuit court explained that by pleading guilty Doman would give up his defenses to the charge, including any claim of self-defense that he might have. Doman said that he understood. Doman told the circuit court that he had not been promised anything to induce his guilty plea and that he had not been threatened.

A guilty plea colloquy must include an inquiry sufficient to satisfy the circuit court that the defendant committed the crime charged. *See* WIS. STAT. §971.08(1)(b). Doman’s trial counsel told the circuit court that it could rely on the facts alleged in the criminal complaint. Doman confirmed that he had read the criminal complaint and that the facts in it were true. The circuit court found a factual basis for the guilty plea. *See State v. Black*, 2001 WI 31, ¶13, 242 Wis. 2d 126, 624 N.W.2d 363.

The record reflects that Doman entered his guilty plea knowingly, intelligently, and voluntarily. *See* WIS. STAT. § 971.08 and *State v. Bangert*, 131 Wis. 2d 246, 266-72, 389 N.W. 2d 12 (1986); *see also State v. Hoppe*, 2009 WI 41, ¶32, 317 Wis. 2d 161, 765 N.W.2d 794 (completed plea questionnaire and waiver of rights form helps to ensure a knowing, intelligent, and voluntary plea). The record reflects no basis for an arguably meritorious challenge to the validity of the plea.

We next consider whether Doman could pursue an arguably meritorious challenge to the sentence. Sentencing lies within the circuit court’s discretion, and our review is limited to determining if the circuit court erroneously exercised its discretion. *State v. Gallion*, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197. “When the exercise of discretion has been demonstrated, we follow a consistent and strong policy against interference with the discretion of the [circuit] court in passing sentence.” *State v. Stenzel*, 2004 WI App 181, ¶7, 276 Wis. 2d 224, 688 N.W.2d 20. The circuit court must consider the primary sentencing factors of “the gravity of the offense, the character of the defendant, and the need to protect the public.” *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. The court may also consider a wide range of other factors concerning the defendant, the offense, and the community. *See id.* The

court has discretion to determine both the factors that it believes are relevant in imposing sentence and the weight to assign to each relevant factor. *Stenzel*, 276 Wis. 2d 224, ¶16.

The sentencing court must also “specify the objectives of the sentence on the record. These objectives include, but are not limited to, the protection of the community, punishment of the defendant, rehabilitation of the defendant, and deterrence to others.” *Gallion*, 270 Wis. 2d 535, ¶40.

The record here reflects an appropriate exercise of sentencing discretion. The circuit court observed that the crime involved a loss of life and therefore was among the “most serious” of offenses. The circuit court considered the number of stab wounds to be an aggravating factor and concluded that the killing in this case was “horrific” and that Doman had “clearly lost it.” The circuit court observed that Doman was fifty-eight years old and had been “living on somebody’s couch,” and the circuit court characterized him as a person who had “lost his way.” The circuit court recognized that Doman’s prior record was both dated and limited, but the circuit court noted that he had committed a prior violent offense, namely, an armed robbery, and the circuit court expressed concern that Doman could not control his temper. The circuit court discussed the need to protect the community, finding that he was “drifting along,” that he was not employed, and that he had a “violent enough temper to stab someone ten times.... There is concern[] on the part of this court as to what that looks like for [] Doman residing in the community in the future.” The circuit court also reviewed the presentence investigation report and took into account both Doman’s acknowledgement that he was under the influence of alcohol at the time of the offense and his statements minimizing the significance of his alcohol use. The circuit court concluded that Doman lacked a sufficient understanding of the seriousness of his alcohol use and abuse.

The circuit court identified punishment as the primary goal of the sentence. The circuit court acknowledged that it could not “replace the value of [the victim’s] life” by requiring Doman to spend time in prison, but the circuit court explained that the act of taking a life must be punished, particularly in light of the violence involved in the killing. The circuit court also identified a need for deterrence, observing that “there is concern on the part of the community as to [] Doman’s dangerous in doing something like this again.” Finally, the circuit court discussed the need for rehabilitation, explaining that Doman must learn how to control his temper and address the extent of his alcohol abuse.

The record shows that the circuit court identified the various factors that it considered in fashioning the sentence. The factors were proper and relevant. Moreover, the sentence imposed was not unduly harsh. A sentence is unduly harsh ““only where the sentence is so excessive and unusual and so disproportionate to the offense committed as to shock public sentiment and violate the judgment of reasonable people concerning what is right and proper under the circumstances.”” See *State v. Grindemann*, 2002 WI App 106, ¶31, 255 Wis.2d 632, 648 N.W.2d 507 (citation omitted). The twenty-five year term of imprisonment imposed in this case is within the limits of the statutory maximum penalties allowed by law for second-degree reckless homicide while using a dangerous weapon and thus is neither disproportionate nor shocking. See *State v. Daniels*, 117 Wis.2d 9, 22, 343 N.W.2d 411 (Ct. App. 1983). We conclude that a challenge to the circuit court’s exercise of sentencing discretion would lack arguable merit.

Last, we consider whether Doman could mount an arguably meritorious challenge to the order that he pay \$2,756 as restitution. Doman stipulated to the amount of restitution ordered, and he is bound by his concession. Cf. *State v. Scherreiks*, 153 Wis. 2d 510, 518, 451 N.W.2d

759 (Ct. App. 1989) (defendant may not attack a disposition that he or she affirmatively approved). An appellate challenge to the restitution order would lack arguable merit.

Based on our independent review of the record, no other issues warrant discussion. We conclude that any further proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

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

IT IS FURTHER ORDERED that Attorney Andrea Taylor Cornwall is relieved of any further representation of Wallace Henry Doman, Jr., on appeal. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals