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COURT OF APPEALS**

STATE OF WISCONSIN

COURT OF APPEALS

DISTRICT IV

Case No. 2021AP000375CR

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

JAMES A. CARROLL, JR.

Defendant-Appellant.

On Appeal from a Judgment of Conviction entered
in Jefferson County Circuit Court,
Case No. 2015-CF-254,
The Honorable William Hue, Presiding,
and the Order Denying Postconviction Relief,
The Honorable William V. Gruber, Presiding.

REPLY BRIEF OF DEFENDANT-APPELLANT

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ARGUMENT

I. The circuit court erred in denying Mr. Carroll's motion to withdraw his no contest plea because Mr. Carroll received ineffective assistance of counsel and was coerced into making the plea.

Mr. Carroll does not disagree with the propositions of law cited in respondent's brief. Rather, Mr. Carroll disagrees with respondent's interpretation of the facts as applied to the law. Mr. Carroll has shown that the circuit court's evidentiary and factual determinations were erroneous, and that Mr. Carroll was coerced into pleading no contest.

Mr. Carroll showed this in the opening brief, in the lengthy quotes from the transcript. Mr. Carroll will not repeat the same quotations here, but urges the Court of Appeals to read the testimony quoted in that Brief. (App. Br. 9-12). It is seemingly ineffective by definition for a trial lawyer to save the preparation for the three or four days before trial. Trial counsel's performance was deficient and that deficiency did prejudice the defendant.

The ineffective assistance of counsel Mr. Carroll received coupled with the prejudice mean that the trial court erred in denying Mr. Carroll's Motion to Withdraw his No Contest Plea.

II. The circuit court erred in denying Mr. Carroll's postconviction motion for sentence modification and failing to remove the requirement that Mr. Carroll register as a sex offender for 15 years due to new factors.

Mr. Carroll does not disagree with respondent's statements of law. Mr. Carroll does disagree with respondent's application of facts to the law. Mr. Carroll refers the Court to Appellant's Brief, pages 12-13, and will not restate the arguments made here. Mr. Carroll argues that in light of his age and medical conditions, the Court erroneously exercised its discretion and this Court should reverse that decision of the circuit court.

CONCLUSION

For the reasons stated above, Mr. Carroll respectfully requests that the Court vacate the plea and remand the matter to the circuit court for trial;

or, in the alternative, remove the requirement that Mr. Carroll register as a sex offender.

Dated this 3rd day of August, 2021.

Respectfully submitted,

Electronically signed by
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CERTIFICATION AS TO FORM AND LENGTH

I hereby certify that this brief conforms to the rules contained in § 809.19(8)(b) and (c) for a brief produced with a proportional serif font. The length of this brief is 334 words.

Dated this 3rd day of August, 2021.

Electronically signed by
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