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DISTRICT II

September 6, 2023

To:

Hon. Jennifer Dorow
Circuit Court Judge
Electronic Notice

Monica Paz
Clerk of Circuit Court
Waukesha County Courthouse
Electronic Notice

Winn S. Collins
Electronic Notice

Brian Patrick Mullins
Electronic Notice

Nathan J. Halfmann, #481985
Fox Lake Correctional Inst.
P.O. Box 200
Fox Lake, WI 53933-0200

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

2022AP1629-CRNM State of Wisconsin v. Nathan J. Halfmann (L.C. #2019CF875)

Before Gundrum, P.J., Neubauer and Grogan, 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).

Nathan J. Halfmann appeals from a judgment, entered following guilty pleas, convicting him of felon in possession of a firearm and failure to comply with an officer's attempt to take a person into custody as a repeater. His appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2021-22)¹ and *Anders v. California*, 386 U.S. 738 (1967). Halfmann did not file a response. Upon consideration of the report and an independent review of the record,

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

we conclude that the judgment may be summarily affirmed because there are no issues with arguable merit for appeal. *See* WIS. STAT. RULE 809.21.

According to the complaint, a warden approached an illegally parked van in the Kettle Moraine State Forest and observed Kalin Sunde in the driver's seat and Halfmann sleeping in the back. While the warden was speaking with Sunde, she drove away. The warden gave chase and other officers joined in the pursuit. During the pursuit, the warden learned the van was stolen. As the van approached an Interstate-94 overpass, the warden reported Halfmann leaned out the front passenger window and pointed a gun at his squad car. The warden reported that Halfmann then directed his aim at a closer officer, who fired two shots at the van. That officer reported he fired at Halfmann because he feared he would be killed. The van stopped on the I-94 overpass. A standoff ensued. A third officer reported that during the standoff, Halfmann pointed a gun at his vehicle from the van's passenger window. Officers used a public address system and announced to Sunde and Halfmann that they were under arrest and to exit the van with their hands up. When neither complied, law enforcement deployed gas into the van. When the pair emerged from the van, Halfmann stood behind Sunde with one arm around her torso and his other arm raised to her head, shots were fired, and Halfmann fell down. Sunde was apprehended and advised that she and Halfmann stole the van and Halfmann stole the firearm. The complaint alleged Halfmann had a prior felony conviction from 2017.

The State charged Halfmann with possessing a firearm by a felon as a repeater; three counts of pointing a firearm at another as a repeater; operating a motor vehicle without the owner's consent as a repeater; failure to comply with an officer's attempt to take a person into custody as a repeater; and theft of movable property as a repeater.

In exchange for Halfmann’s pleas to felon in possession of a firearm (count one) and failure to comply with an officer’s attempt to take a person into custody as a repeater (count four), the State agreed to strike the repeater enhancer from the felon-in-possession charge and dismiss and read in the remaining charges. The State agreed to recommend a total sentence of five years’ initial confinement and eight years’ extended supervision. The parties were free to argue whether the sentences should be concurrent or consecutive.

The circuit court sentenced Halfmann to five years’ initial confinement and five years’ extended supervision on count one—concurrent to a revocation sentence he was serving, and three years’ initial confinement and two years’ extended supervision on count four—consecutive to count one and any other sentence. This no-merit appeal follows.

The no-merit report addresses potential issues of whether Halfmann’s pleas were knowingly, voluntarily, and intelligently entered and whether the court properly exercised its discretion at sentencing. Upon reviewing the record, we agree with counsel’s analysis and conclusion that there is no arguable basis to pursue any of these issues.

We first agree with counsel’s analysis and conclusion that any challenge to the validity of Halfmann’s pleas would lack arguable merit. *See State v. Bangert*, 131 Wis. 2d 246, 260, 389 N.W.2d 12 (1986). Our review of the record and of counsel’s analysis in the no-merit report satisfies us that the circuit court complied with its obligations for taking Halfmann’s pleas. *See* WIS. STAT. § 971.08; *Bangert*, 131 Wis. 2d at 261-62; *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906.

With regard to the circuit court’s sentencing discretion, our review of the record confirms that the court appropriately considered the relevant sentencing objectives and factors. *See State*

v. Odom, 2006 WI App 145, ¶7, 294 Wis. 2d 844, 720 N.W.2d 695; *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. The sentence was not so excessive so as to shock the public’s sentiment. *See Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). Therefore, there would be no arguable merit to a challenge to the court’s sentencing discretion.

Our independent 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 Halfmann further in this appeal.

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 Brian Patrick Mullins is relieved from further representing Nathan J. Halfmann in this appeal. *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