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DISTRICT III

October 24, 2023

To:

Hon. James A. Morrison
Circuit Court Judge
Electronic Notice

Jennifer L. Vandermeuse
Electronic Notice

Sheila Dudka
Clerk of Circuit Court
Marinette County Courthouse
Electronic Notice

Jason Michael Helker 699089
Redgranite Correctional Inst.
P.O. Box 925
Redgranite, WI 54970-0925

Andrew Hinkel
Electronic Notice

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

2021AP1573-CRNM State of Wisconsin v. Jason Michael Helker
(L. C. No. 2019CF241)

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).

Counsel for Jason Helker has filed a no-merit report concluding that no grounds exist to challenge Helker's conviction for third-degree sexual assault, contrary to WIS. STAT. § 940.225(3)(a) (2021-22).¹ Helker was informed of his right to file a response to the no-merit report, and he has not responded. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude there is no arguable merit to any issue

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

that could be raised on appeal. Therefore, we summarily affirm the judgment of conviction. *See* WIS. STAT. RULE 809.21.

The State charged Helker with second-degree sexual assault and burglary of a dwelling. The charges arose from allegations that Helker entered the home of his then ex-girlfriend, Tina,² while she was sleeping, and began to perform oral sex on her. Tina awoke during the assault and told Helker to leave.

Pursuant to a plea agreement, Helker entered a no-contest plea to an amended charge of third-degree sexual assault. In exchange for his no-contest plea, the State recommended that the circuit court dismiss and read in the burglary count. The State also agreed that it would not make a specific sentencing recommendation, though it remained free to argue facts, background, and Helker’s record. Defense counsel remained free to argue at sentencing. The court ultimately imposed the maximum ten-year sentence for third-degree sexual assault, consisting of five years of initial confinement followed by five years of extended supervision. The sentencing court discussed proper sentencing factors, *see State v. Gallion*, 2004 WI 42, ¶¶39-46, 270 Wis. 2d 535, 678 N.W.2d 197, emphasizing that Helker had committed “the most fundamental assault on our community and upon [Tina]” as he possibly could have. In imposing the maximum possible sentence, the court cited protection of the community and punishment as its biggest concerns.

The no-merit report addresses whether Helker knowingly, intelligently, and voluntarily entered his no-contest plea and whether the circuit court properly exercised its sentencing

² Pursuant to the policy underlying WIS. STAT. RULE 809.86(4), we use a pseudonym instead of the victim’s name.

discretion. Upon reviewing the record, we agree with counsel's description, analysis, and conclusion that any challenge to Helker's plea or sentence would lack arguable merit. The no-merit report sets forth an adequate discussion of the potential issues to support the no-merit conclusion, and we need not address them further. Further, a valid guilty or no-contest plea waives all non-jurisdictional defects and defenses. *See State v. Lasky*, 2002 WI App 126, ¶11, 254 Wis. 2d 789, 646 N.W.2d 53. Our independent review of the record discloses no other potential issue for appeal.

Therefore,

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

IT IS FURTHER ORDERED that Attorney Andrew Hinkel is relieved of his obligation to further represent Jason Helker 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