



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688
Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT II

November 22, 2023

To:

Hon. Phillip A. Koss
Circuit Court Judge
Electronic Notice

Kristina Secord
Clerk of Circuit Court
Walworth County Courthouse
Electronic Notice

Dustin C. Haskell
Electronic Notice

Jennifer L. Vandermeuse
Electronic Notice

Zeke Wiedenfeld
Electronic Notice

Jason A. Littel, #687820
Wisconsin Secure Program Facility
P.O. Box 1000
Boscobel, WI 53805-1000

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

2021AP811-CRNM State of Wisconsin v. Jason A. Littel (L.C. #2018CF294)

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).

Jason A. Littel appeals a judgment convicting him of five counts of first-degree sexual assault and one count of false imprisonment with a dangerous weapon. His appellate counsel, Dustin C. Haskell, filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2021-22),¹ and *Anders v. California*, 386 U.S. 738 (1967). Littel received a copy of the report, was advised of his right to respond, and has responded. Appellate counsel filed a supplemental no-merit report.

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

We have independently reviewed the record, the no-merit report, the response, and the supplemental no-merit report as mandated by *Anders*. We conclude that there are no issues of arguable merit that could be pursued on appeal. We, therefore, summarily affirm.

On June 5, 2018, the State charged Littel with five counts of first-degree sexual assault and one count of false imprisonment with a dangerous weapon. According to the complaint, Littel and his wife, S.L., drove to a family cabin to sell a boat that they owned. Littel and S.L. were separated and in the process of divorcing. While at the cabin, Littel threatened S.L. with a gun and repeatedly sexually assaulted her. Littel restrained S.L. with bondage tape and threatened to kill himself. When they returned from the cabin, S.L. called the police.

The matter proceeded to trial where multiple witnesses, including S.L., law enforcement, and Littel, testified. The jury found Littel guilty as charged. The trial court sentenced Littel to a total term of thirty-five years of initial confinement, followed by fifteen years of extended supervision.

Appellate counsel's no-merit report addresses the sufficiency of the evidence, counsel's review of proceedings before and during trial, and the trial court's sentencing decision.

When this court considers the sufficiency of evidence presented at trial, we apply a highly deferential standard. See *State v. Kimbrough*, 2001 WI App 138, ¶12, 246 Wis. 2d 648, 630 N.W.2d 752. We “may not reverse a conviction unless the evidence, viewed most favorably to the [S]tate and the conviction, is so insufficient in probative value and force that ... no trier of fact, acting reasonably, could have found guilt beyond a reasonable doubt.” See *State v. Poellinger*, 153 Wis. 2d 493, 501, 451 N.W.2d 752 (1990). The finder of fact, not this court,

considers the weight of the evidence and the credibility of the witnesses and resolves any conflicts in the testimony. *See id.* at 503-04.

We agree with appellate counsel's analysis as to the sufficiency of the evidence. The jury heard testimony from multiple witnesses, including detailed testimony from S.L. describing the assaults. The jury also heard Littel's version of events and clearly found S.L.'s testimony to be more credible. This evidence is sufficient to sustain the conviction. We agree with appellate counsel's determination that there is no arguable merit to challenging the sufficiency of the evidence supporting the verdict.

Appellate counsel's no-merit report next addresses the trial court's pretrial rulings, the court's evidentiary rulings, jury selection, jury instructions, and Littel's decision to testify. We have reviewed the record and agree with appellate counsel's descriptions and analysis of the proceedings and rulings.

Appellate counsel also addresses whether the trial court erroneously exercised its sentencing discretion. *See State v. Gallion*, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197; *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. Our review of the record confirms that the court considered the relevant sentencing objectives and factors, particularly the seriousness of the offenses, the effect of Littel's conduct on the victim, and his character. The sentence the court imposed is within the range authorized by law, *see State v. Scaccio*, 2000 WI App 265, ¶18, 240 Wis. 2d 95, 622 N.W.2d 449, and is 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). Appellate counsel points out a slight court error in that the court understated the maximum sentence that Littel was facing. The court advised Littel that the dangerous weapon

enhancer carried four years of additional exposure, when it actually carried a maximum of five additional years in confinement. *See* WIS. STAT. § 939.63(1)(b). However, as appellate counsel notes, Littel could not reasonably argue that the court relied on this inaccurate information or that he was harmed by it. *See State v. Tiepelman*, 2006 WI 66, 291 Wis. 2d 179, 717 N.W.2d 1. The court believed the maximum exposure was 310 years, when it was actually 311 years. The court did not rely on this minor mistake when sentencing Littel to a fifty-year term of imprisonment. Accordingly, there would be no arguable merit to a challenge to the court's sentencing discretion.

In his response, Littel maintains his innocence, points to multiple inaccuracies in S.L.'s testimony, and contends that S.L. previously made false accusations of sexual assault. We agree with the analysis appellate counsel puts forth in his supplemental no-merit report, namely, that Littel cannot demonstrate prejudice.

Accordingly, this court accepts the no-merit report, affirms the convictions, and discharges appellate counsel of the obligation to represent Littel further in this appeal.

Upon the foregoing, therefore,

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

IT IS FURTHER ORDERED that Attorney Dustin C. Haskell is relieved of further representation of Jason A. Littel 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