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DISTRICT II

June 26, 2024

To:

Hon. Rebecca L. Persick
Circuit Court Judge
Electronic Notice

Chris Koenig
Clerk of Circuit Court
Sheboygan County Courthouse
Electronic Notice

Steven Roy
Electronic Notice

Jennifer L. Vandermeuse
Electronic Notice

Ronald Lee Williams #318141
Kettle Moraine Correctional Inst.
P.O. Box 282
Plymouth, WI 53073-0282

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

2022AP1476-CRNM State of Wisconsin v. Ronald Lee Williams (L.C. #2017CF443)

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).

Ronald Lee Williams appeals a judgment of conviction, entered upon his no-contest plea, for first-degree sexual assault of a child under the age of thirteen, contrary to WIS. STAT. § 948.02(1)(e) (2021-22).[1] Williams's appointed appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 and ***Anders v. California***, 386 U.S. 738 (1967). Williams was advised of his right to file a response but has not done so. Upon consideration of the no-

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

merit report and an independent review of the record as mandated by ***Anders*** and RULE 809.32, we conclude there is no arguable merit to any issue that could be raised on appeal. We therefore summarily affirm the judgment of conviction. *See* WIS. STAT. RULE 809.21(1).

The criminal complaint alleged that on July 13, 2017, the eleven-year-old victim and her mother reported to police that Williams, the victim's biological father, had touched her vaginal area with his fingers four times during the preceding several years. She asserted this most recently occurred on July 11, 2017, at approximately 8:30 p.m., after Williams had driven her to a secluded forest area in Sheboygan County. The victim alleged that Williams had smoked drugs out of a metal pipe and removed her pants and underwear before touching her. The victim could not identify the specific location of the assault but told a forensic interviewer that she saw a big headstone in a cemetery with the name "Summer" on it and that a place called "Karl's Garage" was nearby. She claimed Williams's vehicle had gotten stuck in the mud as they tried to leave.

Using the markers the victim identified, authorities discovered the area where they believed the assault took place. When they went to interview Williams, they noticed that the wheels of his vehicle were caked in dry mud. Williams's wife noted his absence on the night the sexual assault occurred. After Williams learned that the victim had disclosed the assault, he left unexpectedly for Chicago, returning later that day.

Williams was charged with first-degree sexual assault of a child. He ultimately reached a plea agreement with the State, under which he agreed to plead no contest to the charge.[2] In

[2] Williams' case languished for some time in the circuit court for a number of reasons, including unavailability on the part of State witnesses on scheduled trial dates, Williams' multiple requests for new counsel, one of his attorneys leaving for a new position, and the COVID-19 pandemic.

exchange, the parties stipulated that a first-degree sexual-assault-of-a-child case venued in Fond du Lac County would be dismissed and read in at sentencing on the Sheboygan offense. The State agreed to recommend a prison term of unspecified length, but Williams acknowledged the State might use terms like "lengthy" or "significant" as part of its recommendation. The defense was free to argue. The circuit court granted consolidation and, following a colloquy, it found a factual basis for the plea, accepted Williams' no-contest plea, and dismissed and read in the Fond du Lac County charge.

The circuit court ordered a presentence investigation report (PSI), which recommended a sixteen-to-twenty-year period of initial confinement and five-to-six-year period of extended supervision. The defense argued for probation with an imposed-and-stayed sentence and one year conditional jail time. The State, per the plea agreement, recommended an unspecified but lengthy prison sentence. After sentencing remarks in which it discussed proper sentencing factors and objectives under ***State v. Gallion***, 2004 WI 42, ¶¶39-46, 270 Wis. 2d 535, 678 N.W.2d 197, the circuit court imposed a thirty-five-year sentence consisting of twenty years' initial confinement and fifteen years' extended supervision. Williams was given sentence credit for the considerable period of confinement while the charge was pending.

The no-merit report concludes there is no arguable merit to any challenge to Williams' no-contest plea or to the circuit court's exercise of its sentencing discretion. We agree with counsel's conclusions, but discuss additional matters not addressed in the no-merit report below. Our review of the record discloses no potentially meritorious issues for appeal.

During the plea colloquy, the circuit court referred to the plea questionnaire/waiver of rights form and asked Williams whether he had discussed the elements of the offense with his

attorney. Williams responded that he had and that he did not want the circuit court to review the elements of the offense with him. The plea questionnaire/waiver of rights form advised that "sexual contact" was an element of the offense, and that "sexual contact" had a specified definition, but it did not explicitly recite the "purpose" element of first-degree sexual assault of a child—i.e., that the intentional touching had to be for the "purpose of sexually degrading or sexually humiliating the complainant or sexually arousing or gratifying the defendant." *See* WIS. STAT. § 948.01(5)(a). Instead, the plea questionnaire/waiver of rights form referred to WIS JI—CRIMINAL 2101A (2007), which was not attached.

The purpose of the intentional touching proscribed by WIS. STAT. § 948.02(1) is an essential element of the offense, and a defendant must be aware of this element before he or she can knowingly plead to the offense. ***State v. Jipson***, 2003 WI App 222, ¶9, 267 Wis. 2d 467, 671 N.W.2d 18. To prevail on a claim for plea withdrawal, however, Williams would have to show that he did not know or understand that the State would have to prove his purpose for the touching. *See* ***id.***, ¶¶7-8. At several hearings regarding other-acts evidence, the circuit court concluded, in Williams' presence, that the proffered acts were relevant to demonstrate that Williams was "attracted to younger girls, and he's gratified specifically by touching their vaginas." Williams also specifically told the PSI author that he was not sexually gratified by the touching, suggesting he had been aware of the significance of this fact. Given this record—including the plea colloquy, the plea questionnaire/waiver of rights form, and the other-acts hearings—any assertion that Williams did not possess knowledge or an understanding of the "purpose" element would lack arguable merit. *See* ***State v. Bollig***, 2000 WI 6, ¶55, 232 Wis. 2d 561, 605 N.W.2d 199.

During sentencing remarks, the prosecutor stated (and the circuit court echoed) that there were three Class B felonies at issue: the crime of conviction as well as two felonies that were dismissed and read in, one in Sheboygan County and one in Fond du Lac County. This appears to be an accurate statement, insofar as the single Fond du Lac County charge was consolidated into the Sheboygan action and also separately dismissed in the county of origin after sentencing. The Sheboygan judgment of conviction correctly lists one dismissed-and-read-in count. Any assertion that Williams was sentenced based on inaccurate information would lack arguable merit. *See* ***State v. Tiepelman***, 2006 WI 66, ¶26, 291 Wis. 2d 179, 717 N.W.2d 1.

Based on the foregoing,

IT IS ORDERED that the judgment of the circuit court is summarily affirmed. *See* WIS. STAT. RULE 809.21(1).

IT IS FURTHER ORDERED that Attorney Steven Roy is relieved of further responsibility for representing Williams in connection with 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