



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 I

July 9, 2024

To:

Hon. David A. Feiss
Reserve Judge

Jennifer L. Vandermeuse
Electronic Notice

Anna Hodges
Clerk of Circuit Court
Milwaukee County Safety Building
Electronic Notice

Tramaine D. Hardy 630989
Oshkosh Correctional Inst.
P.O. Box 3310
Oshkosh, WI 54903-3310

Gregory Bates
Electronic Notice

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

2023AP820-CRNM State of Wisconsin v. Tramaine D. Hardy (L.C. # 2021CF5221)

Before White, C.J., Donald, P.J., and Colón, J.

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).

Tramaine D. Hardy appeals from a judgment, entered on his guilty plea, convicting him on one count of first-degree reckless injury with a dangerous weapon. Appellate counsel, Gregory Bates, has filed a no-merit report pursuant to *Anders v. California*, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32 (2021-22),¹ to which Hardy has not responded. Upon this court's independent review of the record, as mandated by *Anders*, and counsel's report, we

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

conclude there are no issues of arguable merit that could be pursued on appeal. We therefore summarily affirm the judgment.

On December 16, 2021, M.J.C. pulled out of a parking lot and began driving. An SUV came up next to her in the left turn lane and turned. Following GPS instructions, M.J.C. also turned left, behind the SUV. M.J.C. then noticed that the SUV had stopped in front of her. Uncertain of why the SUV had stopped, M.J.C. stopped her vehicle about a car length or two behind the SUV. The SUV driver got out of his vehicle with a gun, said something M.J.C. could not understand, and fired two shots into the air before shooting at M.J.C. She drove around the SUV to flee, and the driver continued shooting as she passed.

M.J.C. sustained four gunshot wounds: bullet shrapnel to the right side of her face, a bullet fragment through the soft tissue of her right elbow; a bullet embedded in her left shoulder with a fourteen-millimeter entry wound; and, as described by a surgeon, “an ‘explosion on the surface’ [of her left hand,] which shattered bone and tore deeply into all the soft tissue.” Police observed fifteen bullet strikes to her vehicle and recovered nineteen 9-millimeter casings from the scene.

The shooting had been caught on surveillance video and allowed police to identify the suspect vehicle. A video from a nearby liquor store also captured M.J.C.’s vehicle driving past as she fled and the shooter’s SUV pulling into the liquor store parking lot. The SUV driver got out of the vehicle and went into the store, his face clearly visible. On December 17, 2021, police spotted a vehicle matching the suspect’s SUV and observed that the driver appeared to match the person in the still photos pulled from the liquor store video. Police apprehended Hardy. They recovered a 9-millimeter handgun from the vehicle, “loaded with [an] eighteen-round magazine

which was fully loaded with nine millimeter cartridges as well as an additional nine millimeter cartridge inside of the chamber.” The gun was later determined to have fired the nineteen casings recovered from the scene.²

The State charged Hardy with one count of first-degree reckless injury with a dangerous weapon and one count of carrying a concealed weapon. He agreed to resolve his case with a plea. In exchange for his guilty plea to the reckless injury as charged, the State would dismiss and read in the concealed carry violation and cap its sentence recommendation at fourteen to fifteen years of initial confinement plus eight years of extended supervision. The circuit court accepted Hardy’s plea and ultimately imposed a twenty-year sentence, broken down as thirteen years of initial confinement and seven years of extended supervision. Hardy appeals.

The first issue appellate counsel discusses in the no-merit report is whether “the trial court compl[ied] with the requirements for accepting a valid guilty plea in a criminal case.” To be valid, a guilty or no contest plea must be knowing, intelligent, and voluntary. *See State v. Bangert*, 131 Wis. 2d 246, 260, 389 N.W.2d 12 (1986). To that end, a number of requirements have been established for circuit courts accepting guilty pleas as a way to help ensure such pleas are properly entered by the defendant. *See, e.g., State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906; WIS. STAT. § 971.08.

Our review of the record—including the plea questionnaire form and addendum, the included jury instructions, and the plea hearing transcript—confirms that the circuit court

² Based on comments at the sentencing hearing, Hardy evidently mistook M.J.C. as someone sent to kill him by individuals who had threatened him shortly before this incident.

complied with its obligations for accepting pleas. There is no arguable merit to a claim that the circuit court failed to properly conduct the plea colloquy or that Hardy's plea was anything other than knowing, intelligent, and voluntary.

Appellate counsel also discusses whether “the trial court provide[d] a reasonable basis for the sentence imposed in this case.” Sentencing is committed to the circuit court's discretion. *See State v. Gallion*, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197. At sentencing, a court must consider the principal objectives of sentencing, including the protection of the community, the punishment and rehabilitation of the defendant, and deterrence to others, *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76, and determine which objective or objectives are of greatest importance, *see Gallion*, 270 Wis. 2d 535, ¶41. In seeking to fulfill the sentencing objectives, the court should consider several primary factors, including the gravity of the offense, the character of the offender, and the protection of the public, and may consider other factors. *See State v. Odom*, 2006 WI App 145, ¶7, 294 Wis. 2d 844, 720 N.W.2d 695.

Our review of the record confirms that the court appropriately considered relevant sentencing objectives and factors. The twenty-year sentence imposed is well within the thirty-year 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). There is no arguable merit to a challenge to the circuit court's sentencing discretion.

Our independent review of the record reveals no other potential issues of arguable merit.³

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 Gregory Bates is relieved of further representation of Hardy 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

³ In the no-merit report, appellate counsel very briefly considers two other issues. First, noting that a valid guilty plea waives all nonjurisdictional defects and defenses, counsel considers whether there were “any pretrial issues that were preserved despite entry of the guilty plea.” Under WIS. STAT. § 971.31(10), orders “denying a motion to suppress evidence or a motion challenging the admissibility of a statement of a defendant” can be reviewed on appeal, notwithstanding a plea. As counsel notes, however, no such motions were filed in this case. Second, counsel notes that Hardy was awarded 185 days of sentence credit and states that he “cannot discern an arguable basis for an appeal on this issue.”

We agree that there is no arguable basis in this record for Hardy to have brought any pretrial evidentiary motions, and there is no arguable basis for challenging the properly awarded sentence credit.