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DISTRICT II

July 17, 2024

To:

Hon. Paul Bugenhagen Jr.
Circuit Court Judge
Electronic Notice

Monica Paz
Clerk of Circuit Court
Waukesha County Courthouse
Electronic Notice

Gregory Bates
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Robert A. Maynard, #625261
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You are hereby notified that the Court has entered the following opinion and order:

2022AP1605-CRNM	State of Wisconsin v. Robert A. Maynard (L.C. #2020CF1218)
2022AP1606-CRNM	State of Wisconsin v. Robert A. Maynard (L.C. #2020CF1267)

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).

In these consolidated no-merit appeals, Robert A. Maynard appeals from judgments, entered following his guilty pleas, convicting him of two counts of possession of child pornography and one count of sexual exploitation of a child.¹ Maynard's appellate counsel filed

¹ The judgment of conviction for Waukesha County Circuit Court case No. 2020CF1267 omits the lifetime sex offender registration requirement. The Record, however, reflects the circuit court ordered lifetime sex offender registration for the sexual-exploitation-of-a-child conviction. Because the omission of this requirement on the judgment appears to be a clerical error, upon remittitur, the circuit court shall enter an amended judgment of conviction adding this requirement to the judgment. See *State v. Prihoda*, 2000 WI 123, ¶¶26-27, 239 Wis. 2d 244, 618 N.W.2d 857.

a no-merit report pursuant to WIS. STAT. RULE 809.32 (2021-22)² and *Anders v. California*, 386 U.S. 738 (1967). Maynard was advised of his right to file a response, and he has not responded. After reviewing the Records and counsel's report, we conclude that there are no issues with arguable merit for appeal. We affirm.

In Waukesha County Circuit Court case No. 2020CF1218, after executing a warrant at Maynard's residence and for Maynard's electronic devices, police found multiple images of child pornography on Maynard's HP computer hard drive. Police also found THC and a pipe during the search. The State charged Maynard with ten counts of possession of child pornography, one count of possession of THC, and one count of possession of drug paraphernalia.

In Waukesha County Circuit Court case No. 2020CF1267, after reviewing the electronic devices seized from Maynard's residence, police discovered twelve photographs in a subfolder on Maynard's Western Digital external hard drive. Two of the images depicted seven-year-old VF sleeping. Maynard appeared in these two photographs in a selfie-type pose. The remaining ten photographs were close-ups of VF's vagina. The State charged Maynard with ten counts of sexual exploitation of a child.

Pursuant to a global plea agreement, Maynard pled guilty to two counts of possession of child pornography and one count of sexual exploitation of a child. The remaining charges were dismissed and read in. The circuit court sentenced Maynard to a cumulative sentence of fifteen

² All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

years' initial confinement and ten years' extended supervision.³ In its discretion, the circuit court ordered Maynard to lifetime sex offender registration on the sexual-exploitation-of-a-child conviction. *See* WIS. STAT. § 973.048(4).⁴ This no-merit appeal follows.

We agree with counsel's analysis and conclusion that any challenge to the validity of Maynard'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 Records and of counsel's analysis in the no-merit report satisfies us that the circuit court complied with its obligations for taking Maynard'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.

The no-merit report also discusses whether there were any pretrial issues that were preserved despite Maynard's guilty pleas or should have been preserved before his guilty pleas.

³ Specifically, in Waukesha County Circuit Court case No. 2020CF1267, the circuit court sentenced Maynard to fifteen years' initial confinement and ten years' extended supervision. In Waukesha County Circuit Court case No. 2020CF1218, the circuit court sentenced Maynard to three years' initial confinement and three years' extended supervision on each of the possession-of-child-pornography counts. All the sentences were concurrent to each other.

⁴ During sentencing, when ordering lifetime sex offender registration, the circuit court mistakenly referenced WIS. STAT. § 939.615 instead of WIS. STAT. § 973.048(4). However, after the circuit court referenced § 939.615, Maynard's trial counsel clarified with the court that it ordered lifetime sex offender registration and not lifetime supervision.

We emphasize the significant distinction between lifetime supervision under WIS. STAT. § 939.615 and lifetime sex offender registration. A person placed on "lifetime supervision" under § 939.615 is subject to the control of the department of corrections under conditions set by the court and regulations by the department for the rest of his or her life. *See* § 939.615(5)(a). A circuit court may only place a person convicted of a "serious sex offense" on lifetime supervision if the person has been given notice under WIS. STAT. § 973.125 that the State intends to pursue lifetime supervision under § 939.615 and if the court determines that lifetime supervision of the person is necessary to protect the public. Sec. 939.615(2)(a). Lifetime supervision of serious sex offenders under § 939.615 is separate from the extended supervision portion of a bifurcated sentence under WIS. STAT. § 973.01(2). In this case, there is no indication in the Records that Maynard received notice that the State was pursuing lifetime supervision under § 939.615. *See* §§ 939.615(2)(a), 973.125.

No suppression motions were filed in these cases. We agree with counsel's analysis and conclusion that there are no issues of arguable merit for appeal on these topics.

With regard to the circuit court's sentencing discretion, our review of the Records 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). It was within the court's authority to order lifetime sex offender registration. WIS. STAT. § 973.048(4). There is no arguable merit to a challenge to the court's sentencing discretion.

Our independent review of the Records discloses no other potential issues for appeal.

Upon the foregoing reasons,

IT IS ORDERED that the judgments of the circuit court are summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that upon remittitur, the judgment in Waukesha County Circuit Court case No. 2020CF1267 should be corrected as discussed in footnote one of this opinion.

IT IS FURTHER ORDERED that Attorney Gregory Bates is relieved of further representation of Robert A. Maynard in these appeals. *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