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DISTRICT II

August 21, 2024

To:

Hon. J. Arthur Melvin III
Circuit Court Judge
Electronic Notice

Monica Paz
Clerk of Circuit Court
Waukesha County Courthouse
Electronic Notice

Brian Patrick Mullins
Electronic Notice

Jennifer L. Vandermeuse
Electronic Notice

Traves J. Robinson #705790
Racine Correctional Inst.
P.O. Box 900
Sturtevant, WI 53177-0900

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

2023AP484-CRNM State of Wisconsin v. Traves J. Robinson (L.C. #2021CF361)

Before Gundrum, P.J., Neubauer and Lazar, 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).

Traves J. Robinson appeals a judgment of conviction for delivery of narcotics while armed with a dangerous weapon, contrary to WIS. STAT. §§ 961.41(1)(a) (2021-22)[1] and 939.63(1)(b); possession of a firearm by an out-of-state felon, contrary to WIS. STAT. § 941.29(1m)(b); first-degree recklessly endangering safety, contrary to WIS. STAT. § 941.30(1), and possession of narcotics with intent to deliver, contrary to § 961.41(1m)(a). His appointed appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 and ***Anders v. California***, 386 U.S.

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

738 (1967). Robinson was advised of his right to file a response but has not done so. Upon consideration of the no-merit report and our independent review of the record as mandated by ***Anders***, we conclude there is no issue of arguable merit that could be raised on appeal. We therefore summarily affirm the judgment. *See* WIS. STAT. RULE 809.21(1).

The criminal complaint alleges that Robinson sold fentanyl to a confidential police informant out of his "trap [i.e., drug] house" on February 25 and 26, 2021. On the latter occasion, video of the transaction showed a shotgun in plain view on the living room floor near where the exchange occurred. A review of criminal records indicated Robinson had a prior felony conviction in Illinois for aggravated battery causing great bodily harm.

Police executed search warrants for both the trap house and Robinson's residence. Hundreds of pills containing fentanyl were found at the trap house, as well as other drugs, drug paraphernalia, and a shotgun. At Robinson's residence, police found his ten-year-old son alone with access to drugs and firearms.

Robinson was provided ***Miranda*** warnings[2] and waived them. Robinson acknowledged his Illinois conviction. He stated that some of the drugs found in the trap house were his and that he sold them, though he denied knowing they contained fentanyl. Robinson told police the shotgun at the trap house was a friend's, but he acknowledged moving it around the apartment. Robinson also acknowledged owning the drugs found in his residence, but he claimed the firearms found there variously belonged to his wife and a friend. Nevertheless, Robinson told police he had handled the firearms.

[2] *See* ***Miranda v. Arizona***, 384 U.S. 436 (1966).

Based on those facts, the State filed a fifteen-count criminal complaint against Robinson. He ultimately reached a plea agreement with the State. Robinson pled no contest to the two crimes of conviction relating to the possession and delivery of narcotics. He pled guilty to the two crimes of conviction relating to the possession of a firearm by a felon and recklessly endangering safety.

In exchange, the State agreed that the remaining counts would be dismissed and read in. The State also agreed to recommend a sentence consisting of ten years' initial confinement and five years' extended supervision for the possession-of-narcotics offense. For each of the other three crimes of conviction, the State agreed to recommend a sentence consisting of five years' initial confinement and five years' extended supervision, concurrent with one another but consecutive to the sentence for possession of narcotics, imposed and stayed with five years' probation.

The circuit court conducted a plea colloquy with Robinson, following which it accepted his pleas pursuant to the plea agreement. The court ordered a presentence investigation report and, at a subsequent sentencing hearing, imposed the sentences recommended by the State. The court made Robinson eligible for the substance abuse program (SAP) after he had served eight years of the initial confinement, remarking that Robinson could "shave two years off with the programming."

Robinson, by appointed postconviction counsel, filed a motion for postconviction relief, which sought to amend the judgment of conviction to make Robinson eligible for the SAP after seven years. Robinson argued that because there was a waiting list and the program could take six months to one year to complete, he should be made eligible for the SAP after serving seven

years of initial confinement. At the hearing on the motion, the circuit court clarified that it wanted Robinson to serve at least eight years of initial confinement before being released. An amended judgment of conviction was entered containing that clarifying language. Robinson now appeals.

The no-merit report addresses whether Robinson could raise nonfrivolous arguments related to the sufficiency of the plea colloquy or the circuit court's exercise of its sentencing discretion. Subject to the paragraphs below, our review of the appellate record satisfies us that the no-merit report sufficiently analyzes these issues and properly concludes that any challenge based upon them would lack arguable merit. Our review of the appellate record discloses no other potentially meritorious issues for appeal.

At the plea hearing, the circuit court has a duty to ascertain whether any promises or threats have been made to the defendant in connection with his or her appearance and proposed plea. ***State v. Bangert***, 131 Wis. 2d 246, 262, 389 N.W.2d 12 (1986). The circuit court did not specifically ask Robinson at the plea hearing whether his pleas had been obtained by threats or promises. The no-merit report does not directly address this omission.

Nonetheless, we conclude any challenge to the validity of Robinson's plea on this basis would lack arguable merit. The circuit court asked Robinson the broader question of whether he was entering his pleas freely, voluntarily and intelligently. Moreover, the plea questionnaire and waiver-of-rights form Robinson signed indicated that he was entering the pleas of his own free will, he had not been threatened or forced to enter his pleas, and he had not been made any promises other than those reflected in the plea agreement. During the plea colloquy, the court personally confirmed that Robinson had read the form before he signed it and that his attorney

had read the form to him as well and explained each of the provisions it contained. The court's plea colloquy, supplemented by the plea questionnaire and waiver-of-rights form, was sufficient to establish that Robinson's pleas were obtained without threats or promises. *See* ***State v. Cajujuan Pegeese***, 2019 WI 60, ¶¶39-40, 387 Wis. 2d 119, 928 N.W.2d 590.

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

IT IS FURTHER ORDERED that Attorney Brian Patrick Mullins is relieved of further responsibility for representing Traves J. Robinson 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