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DISTRICT I

October 8, 2024

To:

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Circuit Court Judge
Electronic Notice

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

Dustin C. Haskell
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Timothy Marez Youngblood 692312
Waupun Correctional Inst.
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You are hereby notified that the Court has entered the following opinion and order:

2023AP1868-CRNM State of Wisconsin v. Timothy Marez Youngblood
(L.C. # 2019CF4917)

Before White, C.J., Donald, P.J., and Geenen, 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).

Timothy Marez Youngblood appeals a judgment of conviction entered upon his guilty pleas to attempted first-degree intentional homicide and first-degree reckless injury, both as acts of domestic abuse. Appellate counsel, Attorney Lauren Jane Breckenfelder, filed a no-merit report pursuant to ***Anders v. California***, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32 (2021-22).[1] She also filed a supplemental no-merit report to address the content of a transcript

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

that was belatedly prepared and filed.[2] Youngblood was served with copies of the no-merit reports but he did not respond. Upon consideration of the no-merit reports and an independent review of the record as mandated by ***Anders***, we conclude that no arguably meritorious issues exist for an appeal. Therefore, we summarily affirm. *See* WIS. STAT. RULE 809.21.

According to the criminal complaint, A.S.P., then thirteen years old, was at home on November 2, 2019, when she heard her mother, T.L.H., screaming for help. A.S.P. ran to investigate and saw T.L.H.'s boyfriend, Youngblood, repeatedly stabbing T.L.H. with a knife. A.S.P. called 911. When officers arrived at the home, they spoke to T.L.H., who said that Youngblood became enraged when she told him that she "only wanted to be friends." T.L.H. sustained approximately twenty stab wounds and suffered a collapsed lung. The State charged Youngblood with attempted first-degree intentional homicide and first-degree reckless injury, each by use of a dangerous weapon and as an act of domestic abuse.

Youngblood requested a jury trial and moved to suppress the statements that he made to police when they arrested him on a Milwaukee street corner shortly after A.S.P. called 911.[3] The circuit court conducted a hearing at which Officer Robert Ferrell was the sole witness. Ferrell said that he was one of the officers responding to the report of a stabbing and that he was driving a marked squad car in the area of the reported incident when he saw Youngblood standing near a bus shelter. Ferrell stopped the squad car, and Youngblood immediately approached. He was

[2] Due to personnel changes in the State Public Defender's office, the State Public Defender appointed Attorney Dustin C. Haskell as successor appellate counsel for Youngblood after the no-merit reports were filed in this matter.

[3] Youngblood also moved to suppress the statements that he made during three custodial interviews at the police station. The State advised, however, that it would not seek to admit those statements.

covered in blood and said: "you are looking for me." Youngblood also made statements that he wanted to die and that he "deserve[d] this." The police then handcuffed Youngblood and asked him "where the knife was." Youngblood responded to the officers' questions. The circuit court granted the suppression motion in part, ruling that the State could not present any evidence of the statements that Youngblood made about the knife. The circuit court concluded, however, that up to the point where the officers began questioning Youngblood about the knife, his statements were voluntary and therefore admissible.

Trial proceedings began, but Youngblood decided after jury selection that he wanted to resolve the charges with a plea agreement. Pursuant to its terms, he pled guilty to the two substantive charges, both as acts of domestic abuse. In exchange, the State dismissed the weapons enhancers and promised to recommend a global disposition of twenty to twenty-five years of initial confinement and fifteen years of extended supervision. Additionally, the parties agreed that, pursuant to WIS. STAT. § 973.20(1g)(b), an uncharged crime of intimidating a witness that the State had contemplated filing would instead be read in for sentencing purposes.

The matters proceeded to sentencing. For the attempted first-degree intentional homicide conviction, Youngblood faced a maximum penalty of sixty years of imprisonment. *See* WIS. STAT. §§ 940.01(1)(a), 939.32(1)(a), 939.50(3)(a), (b) (2019-20). The circuit court imposed a thirty-five-year sentence, bifurcated as twenty-five years of initial confinement and ten years of extended supervision. For the first-degree reckless injury conviction, Youngblood faced a maximum penalty of twenty-five years of imprisonment and a $100,000 fine. *See* WIS. STAT. § 940.23(1)(a), 939.50(3)(d) (2019-20). The circuit court imposed a concurrent fifteen-year sentence, bifurcated as ten years of initial confinement and five years of extended supervision. The circuit court also imposed a mandatory $100 domestic abuse surcharge for each offense, *see*

WIS. STAT. § 973.055(1), granted Youngblood the 263 days of sentence credit that he requested, and ordered him to pay restitution of $1,812.39.

We begin by considering an issue that appellate counsel does not discuss in the no-merit reports, namely, whether Youngblood could raise an arguably meritorious claim that he was not competent to proceed with the criminal litigation. The circuit court referred Youngblood for a competency evaluation early in the case, after his trial counsel raised concerns about Youngblood's mental health. The examining psychologist, Dr. Deborah L. Collins, filed a report stating that Youngblood displayed the capacity to understand "the essential purpose of a trial," "the essentials of each plea option," and "the range and nature of [the] potential penalties" that he faced if convicted. She noted that an area of potential concern was Youngblood's claim of amnesia for the time period coinciding with the alleged offenses, but she determined that he nonetheless "exhibited the capacity to understand the substance of the charges" and "offered information potentially relevant to the development of a defense." Based on his "performance strengths," Dr. Collins concluded "to a reasonable degree of professional certainty that ... Youngblood is presently competent to proceed." Neither the State nor Youngblood disputed her conclusions. The circuit court found that Youngblood was competent to proceed.

"[A] defendant is incompetent if he or she lacks the capacity to understand the nature and object of the proceedings, to consult with counsel, and to assist in the preparation of his or her defense." ***State v. Byrge***, 2000 WI 101, ¶27, 237 Wis. 2d 197, 614 N.W.2d 477. This court will uphold a circuit court's competency determination unless that determination is clearly erroneous. ***State v. Garfoot***, 207 Wis. 2d 214, 225, 558 N.W.2d 626 (1997). In light of the psychologist's report and the standard of review, any further proceedings in regard to Youngblood's competency to proceed would lack arguable merit.

We next consider whether Youngblood could pursue an arguably meritorious claim for plea withdrawal on the ground that his guilty pleas were not knowingly, intelligently, and voluntarily entered. *See* ***State v. Bangert***, 131 Wis. 2d 246, 257, 389 N.W.2d 12 (1986). We agree with appellate counsel that he could not do so. At the outset of the plea hearing, the circuit court established that Youngblood was thirty-two years old and had completed the eleventh grade. Youngblood said that he had signed a plea questionnaire and waiver of rights form and addendum after reviewing them with trial counsel, and he assured the circuit court that the information he provided in those documents was true and correct. *See* ***State v. Hoppe***, 2009 WI 41, ¶32, 317 Wis. 2d 161, 765 N.W.2d 794 (providing that a completed plea questionnaire and waiver of rights form helps to ensure a knowing, intelligent, and voluntary plea). The circuit court then conducted a colloquy with Youngblood that fully complied with the circuit court's obligations when accepting a guilty plea. *See* ***id.***, ¶18; WIS. STAT. § 971.08(1). The record—including the plea questionnaire and waiver of rights form and addendum, the attached jury instructions that Youngblood signed describing the elements of the crimes to which he pled guilty, and the plea hearing transcript—demonstrates that Youngblood entered his guilty pleas knowingly, intelligently, and voluntarily. Further pursuit of this issue would lack arguable merit.

As a rule, a defendant who enters a valid guilty plea forfeits the right to challenge alleged nonjurisdictional defects and to raise defenses to the criminal charge. ***State v. Kelty***, 2006 WI 101, ¶18 & n.11, 294 Wis. 2d 62, 716 N.W.2d 886. Accordingly, further pursuit of the evidentiary and jury instruction rulings that preceded Youngblood's guilty pleas would be frivolous within the meaning of ***Anders***.

An exception to the rule described in ***Kelty*** is codified in WIS. STAT. § 971.31(10), which permits a defendant who has pled guilty or no contest to challenge an order denying a motion to

suppress evidence. We have therefore considered whether Youngblood could mount an arguably meritorious challenge to the portion of the suppression order denying his motion to suppress the statements that he made to police officers when they first encountered him near a bus stop on November 2, 2019. We agree with appellate counsel that he could not do so.

As noted in the no-merit report, the circuit court found that Youngblood approached the police officers and made spontaneous statements, specifically, that the police were looking for him, that he "deserve[d] this," and that he wanted to die. These findings are supported by the record and therefore would withstand an appellate challenge. ***State v. Bullock***, 2014 WI App 29, ¶14, 353 Wis. 2d 202, 844 N.W.2d 429. Given the factual findings, the circuit court correctly determined that Youngblood's initial statements to police on November 2, 2019, were admissible at trial. *See* ***Miranda v. Arizona***, 384 U.S. 436, 478 (1966) ("Any statement given freely and voluntarily without any compelling influences is, of course, admissible in evidence."). Further pursuit of this issue would be frivolous within the meaning of ***Anders***.

Turning to sentencing, we agree with appellate counsel that Youngblood could not mount an arguably meritorious challenge to the circuit court's exercise of sentencing discretion. *See* ***State v. Gallion***, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197. Before pronouncing sentence, the circuit court identified deterrence and protection of the community as the primary sentencing goals, and the circuit court discussed the factors that it viewed as relevant to achieving those goals. *See* ***id.***, ¶¶41-43. The circuit court's discussion included consideration of the primary sentencing factors, namely, "the gravity of the offense, the character of the defendant, and the need to protect the public." ***State v. Ziegler***, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. The sentences that the circuit court imposed were well within the limits of the aggregate maximum sentence allowed by law and therefore presumptively not

unduly harsh or excessive. ***State v. Mursal***, 2013 WI App 125, ¶¶24, 26, 351 Wis. 2d 180, 839 N.W.2d 173. We conclude that a challenge to the circuit court's exercise of sentencing discretion would be frivolous within the meaning of ***Anders***.

Last, we conclude that Youngblood could not pursue an arguably meritorious challenge to the order that he pay restitution in the amount of $1,812.39. Youngblood stipulated to restitution in that amount. *See* WIS. STAT. § 973.20(13)(c). A challenge to the restitution order would therefore be frivolous within the meaning of ***Anders***. *Cf.* ***State v. Scherreiks***, 153 Wis. 2d 510, 518, 451 N.W.2d 759 (Ct. App. 1989) (holding that a defendant may not challenge on appeal a sentence that he or she affirmatively approved).

Our independent review of the record does not disclose any other potential issues warranting discussion. We conclude that further postconviction or appellate proceedings would be wholly frivolous within the meaning of ***Anders*** and WIS. STAT. RULE 809.32.

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

IT IS FURTHER ORDERED that Attorney Dustin C. Haskell is relieved of any further representation of Timothy Marez Youngblood. *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