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DISTRICT I

November 12, 2013

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

2013AP1765-CRNM State of Wisconsin v. Jameel Alheyemi Darrah (L.C. #2011CF4864)

Before Fine, Kessler and Brennan, JJ.

Jameel Alheyemi Darrah appeals from a judgment of conviction, entered upon his guilty pleas, on one count of violating a domestic abuse injunction and one count of intimidating a witness. Appellate counsel, Dustin C. Haskell, has filed a no-merit report, pursuant to *Anders v. California*, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32 (2011-12).¹ Darrah was advised of his right to file a response, but has not responded. Upon this court's independent review of

¹ All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

the record, as mandated by *Anders*, and counsel’s report, we conclude there is no issue of arguable merit that could be pursued on appeal. We therefore summarily affirm the judgment.

Darrah, subject to a domestic abuse restraining order in one case and facing criminal charges in Milwaukee County Circuit Court case No. 2011CF3418, sent a letter to his ex-live-in-girlfriend, the injunction petitioner and a witness in the criminal case. The letter told her that if she or her cousin, who was also a witness, showed up to testify against Darrah, the “streets” would seek revenge. The woman was frightened and contacted police upon receipt of the letter. Darrah was charged in this new case with violating a domestic abuse injunction and intimidating a witness, both as a repeater.

Darrah agreed to resolve this case and case 3418—in which he was charged with felony battery, first-degree recklessly endangering safety, and possession of a firearm by a felon—with a global plea agreement. In exchange for his guilty pleas, the State would dismiss the repeater allegations in this case, amend the felony battery to a misdemeanor, and dismiss outright the other two charges in case 3418.² The State would further make a global sentencing recommendation of three years’ initial confinement and two years’ extended supervision, with no position on whether the sentence should be concurrent or consecutive to a revocation sentence.

The circuit court accepted the pleas. In this case, it sentenced Darrah to six months in jail for violating the injunction, plus one year of initial confinement and one year of extended supervision for the intimidation. The sentences were consecutive to each other, consecutive to a nine-month sentence for the battery, and consecutive to any other sentence. The judgment of

² The State had determined that someone else was responsible for those offenses.

conviction imposed both a domestic violence surcharge and a DNA surcharge, but the circuit court vacated both of those on Darrah's postconviction motion.³

The first potential issue counsel identifies is whether the circuit court followed the appropriate procedures in accepting Darrah's pleas. Our review of the record—including the plea questionnaire and waiver of rights form, addendum, and plea hearing transcript—confirms that the circuit court complied with its obligations for taking a guilty plea, pursuant to WIS. STAT. § 971.08, *State v. Bangert*, 131 Wis. 2d 246, 261-62, 389 N.W.2d 12 (1986), and subsequent cases, as collected in *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906. There is no arguable merit to a claim that the circuit court failed to fulfill its obligations or that Darrah's plea was anything other than knowing, intelligent, and voluntary.

The other issue counsel addresses is whether the circuit court erroneously exercised its sentencing discretion. See *State v. Gallion*, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197. At sentencing, a circuit court must consider the principle 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 circuit court should consider a variety of factors, including the gravity of the offense, the character of the offender, and the protection of the public, and may consider several subfactors. See *State v. Odom*, 2006 WI App

³ Darrah previously appealed his conviction in Milwaukee County Circuit Court case No. 2011CF3418. We affirmed the judgment. See *State v. Darrah*, No. 2012AP2373-CRNM, unpublished slip op. and order (June 11, 2013).

145, ¶7, 294 Wis. 2d 844, 720 N.W.2d 695. The weight to be given to each factor is committed to the circuit court's discretion. *See id.*

Our review of the record confirms that the circuit court appropriately considered relevant sentencing objectives and factors. In particular, we note that the circuit court explained that it had rejected probation as a possibility and explained why it thought consecutive sentences were warranted. The thirty-month sentence imposed is well within the ten-year and nine-month 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). Any issues that may have existed with regard to the surcharges were remedied when the postconviction motion was granted. There would be no arguable merit to a further challenge to the court's sentencing discretion.

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

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 Dustin C. Haskell is relieved of further representation of Darrah in this matter. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals