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DISTRICT IV

February 11, 2014

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

2012AP1543-CRNM State of Wisconsin v. Levi Seth Myrick (L.C. #2011CF139)

Before Blanchard, P.J., Higginbotham and Kloppenburg, JJ.

Attorney Eileen Hirsch, appointed counsel for Levi Myrick, has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2011-12)¹ and *Anders v. California*, 386 U.S. 738 (1967).

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

Counsel provided Myrick with a copy of the report, and both counsel and this court advised him of his right to file a response. Myrick has not responded. We conclude that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. After our independent review of the record, we conclude there is no arguable merit to any issue that could be raised on appeal.

Pursuant to a plea agreement, Myrick entered *Alford*² pleas to two counts of causing mental harm to a child. On one count, the court imposed the maximum sentence of seven years, six months of initial confinement and five years of extended supervision. On the other count, the court withheld sentence and placed Myrick on five years of probation.

Another charge in this case remains undisposed of and pending under a deferred prosecution agreement. We granted leave to appeal on the two conviction counts, to the extent those convictions may be nonfinal. Our review in this appeal does not include the undisposed of count, on which there was an *Alford* plea but the court withheld acceptance of the plea and withheld adjudication.

The no-merit report addresses whether Myrick's pleas were entered knowingly, voluntarily, and intelligently. As to the mental harm counts, the plea colloquy sufficiently complied with the requirements of *State v. Bangert*, 131 Wis. 2d 246, 255-73, 389 N.W.2d 12 (1986), and WIS. STAT. § 971.08 relating to the nature of the charge, the rights Myrick was

² *North Carolina v. Alford*, 400 U.S. 25 (1970).

waiving, and other matters. The record shows no other ground to withdraw the plea. There is no arguable merit to this issue.

The no-merit report addresses whether the court erroneously exercised its sentencing discretion. The standards for the circuit court and this court on sentencing issues are well established and need not be repeated here. *See State v. Gallion*, 2004 WI 42, ¶¶17-51, 270 Wis.2d 535, 678 N.W.2d 197. In this case, the court considered appropriate factors such as Myrick's prior record, his substance use issues, and the effect of the crime on the victim and family. The court did not consider improper factors, and reached a reasonable result. There is no arguable merit to this issue.

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

Therefore,

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

IT IS FURTHER ORDERED that Attorney Hirsch is relieved of further representation of Myrick in this matter. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals