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DISTRICT III

January 9, 2015

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

2014AP1132-CRNM State of Wisconsin v. Sarah E. Wittrock (L.C. #2000CF794)

Before Curley, P.J., Kessler and Brennan, JJ.

Sarah E. Wittrock appeals a judgment imposing sentence after her probation was revoked. Appellate counsel, John R. Breffeilh, 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). Wittrock was informed of her right to respond, but she has not done so. After reviewing the no-merit report and after conducting an independent review of the record, we conclude this appeal presents no

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

issues of arguable merit. Therefore, we summarily affirm the judgment. *See* WIS. STAT. RULE 809.21.

The no-merit report addresses whether there would be arguable merit to a claim that the circuit court misused its discretion when it sentenced Wittrock to two consecutive six-year prison terms for forgery, with three years of initial confinement and three years of extended supervision on each count. In framing Wittrock's sentence, the circuit court explained that Wittrock had been given many chances over the years to rehabilitate herself, but that she continued to commit crimes. The circuit court concluded that it had to put Wittrock in prison because it was the only way to stop her from victimizing friends, family and strangers. The circuit court applied the various sentencing considerations in accordance with the framework set forth in *State v. Gallion*, 2004 WI 42, ¶¶39-46, 270 Wis. 2d 535, 678 N.W.2d 197, and its decision was a reasonable exercise of discretion in light of the circumstances presented. There is no arguable merit to an appellate challenge to the sentence.

After independently reviewing the record, we conclude that there are no issues of arguable merit for Wittrock to raise on appeal. Wittrock may not challenge the underlying judgment of conviction in the context of this appeal because the deadline for challenging the underlying judgment has passed. *See State v. Drake*, 184 Wis. 2d 396, 399-400, 515 N.W.2d 923 (Ct. App. 1994). Therefore, we affirm the judgment of conviction and relieve Attorney John R. Breffeilh of further representation of Wittrock.

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

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

Diane M. Fremgen
Clerk of Court of Appeals