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DISTRICT II

March 18, 2015

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

2014AP2450-CRNM State of Wisconsin v. Gaylor J. Coleman, Jr. (L.C. #2013CF1188)

Before Neubauer, P.J., Reilly and Gundrum, JJ.

Gaylor J. Coleman, Jr. appeals a judgment convicting him upon his guilty plea to attempted first-degree homicide by use of a dangerous weapon. Coleman's appellate counsel, Attorney John T. Wasielewski, has filed a thorough no-merit report pursuant to WIS. STAT. RULE 809.32 (2013-14)¹ and *Anders v. California*, 386 U.S. 738 (1967). Coleman was advised of his right to file a response but has not done so. Upon consideration of the no-merit report and an

¹ All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

independent review of the record as mandated by *Anders* and RULE 809.32, we conclude that the judgment may be summarily affirmed because there is no arguable merit to any issue that could be raised on appeal. *See* WIS. STAT. RULE 809.21. We affirm the judgment, accept the no-merit report, and relieve Wasielewski of further representing Coleman in this matter.

Coleman was charged with two counts of attempted first-degree homicide by use of a dangerous weapon for stabbing and slashing the necks of two people after an evening of alcohol and drug use with one of the victims. The other victim, a seventy-two-year-old man on oxygen, was in his room with his door closed when Coleman burst in. Both attacks apparently were unprovoked. Coleman entered a guilty plea to count one; count two was dismissed and read in. The court imposed a forty-five-year sentence consisting of twenty-five years' initial confinement and twenty years' extended supervision. This no-merit appeal followed.

The no-merit report first considers whether there is arguable merit to a challenge to Coleman's guilty plea. We agree with appellate counsel that there is not. Coleman executed a plea questionnaire and waiver-of-rights form that, along with the court's careful colloquy, informed him of the constitutional rights he waived by pleading guilty, the elements of the offense, and the potential sentence. The court made clear that it was not bound by the plea negotiations or the presentence investigation recommendation and could sentence him to the maximum prison term. Coleman acknowledged his guilt. The record shows that the plea was knowingly, voluntarily, and intelligently entered. *See State v. Bangert*, 131 Wis. 2d 246, 260-62, 389 N.W.2d 12 (1986); *State v. Hampton*, 2004 WI 107, ¶2, 274 Wis. 2d 379, 683 N.W.2d 14.

The record also discloses no basis for challenging the court’s sentencing discretion. The court noted that the victims, one of whom required Flight for Life, survived only by a miracle. Coleman left them virtually drowning in their own blood and rendered no aid. His drug use, which evidently prompts him to act in ways not characteristic of his usual behavior, may explain his actions to a degree but does not excuse them. The very similar situation he was involved in and served time for eight years earlier should have served as a “wake-up call” to him.

The court viewed the seriousness of the crime, the protection of the public, and punishment as the most important sentencing factors and objectives in this case. These are legally recognized factors and objectives and meet the criteria set out in *State v. Gallion*, 2004 WI 42, ¶¶38-46, 270 Wis. 2d 535, 678 N.W.2d 197. The sentence imposed, well within the limits of the sixty-five years he faced, “is not so disproportionate to the offense committed as to shock the public sentiment and violate the judgment of reasonable people concerning what is right and proper under the circumstances.” *State v. Daniels*, 117 Wis. 2d 9, 22, 343 N.W.2d 411 (Ct. App. 1983).

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

Upon the foregoing reasons,

IT IS ORDERED that the judgment of the circuit court is summarily affirmed, pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney John T. Wasielewski is relieved of further representing Coleman in this matter.

Diane M. Fremgen
Clerk of Court of Appeals