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DISTRICT II

May 27, 2015

To:

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

2014AP2747-CRNM	State of Wisconsin v. Joshua A. Silverman (L.C. # 2011CF281)
2014AP2748-CRNM	State of Wisconsin v. Joshua A. Silverman (L.C. # 2011CF505)

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

In these consolidated cases, Joshua A. Silverman appeals from judgments sentencing him after revocation of his probations for felony bail jumping and possession with intent to deliver a schedule four substance as a party to a crime, second or subsequent offense. Silverman's appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2013-14)¹ and *Anders v. California*, 386 U.S. 738 (1967). Silverman received a copy of the report, was

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

advised of his right to file a response, and has elected not to do so. After reviewing the record and counsel's report, we conclude that there are no issues with arguable merit for appeal. Therefore, we summarily affirm the judgments. WIS. STAT. RULE 809.21.

The no-merit report addresses whether the circuit court properly exercised its discretion in imposing its sentences after revocation. The circuit court's duty at sentencing after probation revocation is the same as its duty at the original sentencing. *State v. Wegner*, 2000 WI App 231, ¶7 n.1, 239 Wis. 2d 96, 619 N.W.2d 289. Where, as in the present cases, different judges presided over the original sentencing and the sentencing after revocation, the record should reflect that the circuit court familiarized itself with the particulars of the case at issue. See *State v. Walker*, 2008 WI 34, ¶3, 308 Wis. 2d 666, 747 N.W.2d 673; *State v. Reynolds*, 2002 WI App 15, ¶9, 249 Wis. 2d 798, 643 N.W.2d 165.

Here, the record reflects that the circuit court was familiar with the particulars of Silverman's cases. Likewise, the record reveals that the court's sentencing decisions had a "rational and explainable basis." *State v. Gallion*, 2004 WI 42, ¶76, 270 Wis. 2d 535, 678 N.W.2d 197. In imposing consecutive sentences of six years of imprisonment on the felony bail jumping charge and two years of imprisonment on the possession with intent to deliver charge, the court considered the seriousness of the offenses, Silverman's character, and the need to protect the public. *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. Under the circumstances of the cases, which were aggravated by Silverman's lengthy criminal record and multiple violations of the rules of his supervision, the sentences imposed do not "shock public sentiment and violate the judgment of reasonable people concerning what is right

and proper.” See *Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). We agree with counsel that a challenge to Silverman’s sentences would lack arguable merit.²

Our independent review of the record does not disclose any potentially meritorious issue for appeal.³ Because we conclude that there would be no arguable merit to any issue that could be raised on appeal, we accept the no-merit report and relieve Attorney Chris Bailey of further representation in these matters.

Upon the foregoing reasons,

IT IS ORDERED that the judgments of the circuit court are summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Chris Bailey is relieved of further representation of Joshua A. Silverman in these matters.

Diane M. Fremgen
Clerk of Court of Appeals

² Based on the record, we agree with the circuit court’s conclusion that Silverman was entitled to 55 days of sentence credit in 2014AP2747-CRNM and 679 days of sentence credit in 2014AP2748-CRNM.

³ Any challenge to the underlying convictions is outside the scope of these appeals. See *State ex rel. Marth v. Smith*, 224 Wis. 2d 578, 582 n.5, 592 N.W.2d 307 (Ct. App. 1999).