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February 17, 2016

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

2014AP2368-CRNM State of Wisconsin v. Kristine Lynn Miron (L.C. # 2013CF152)

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

Kristine Lynn Miron appeals from a judgment of conviction entered upon her guilty pleas to two counts of identity theft for financial gain. Miron's appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2013-14)¹ and *Anders v. California*, 386 U.S. 738 (1967). Miron received a copy of the report, was advised of her right to file a response, and has elected not to do so. Upon consideration of the report and an independent review of the record,

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

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.

Without authorization, Miron used three of her employer's company credit cards to purchase personal items and pay her personal bills. An internal audit calculated the unauthorized amount at \$17,178.19. The State charged Miron with three counts of unauthorized use of an entity's identifying information or documents for financial gain, contrary to WIS. STAT. § 943.203(2)(a). Pursuant to a plea agreement, Miron pled guilty to counts one and two, and count three was dismissed but read in. The trial court imposed on each count a four-year bifurcated sentence, with two years of initial confinement and two years of extended supervision. The sentences were ordered to run consecutive, for an aggregate bifurcated sentence totaling eight years.

The no-merit report addresses whether Miron's pleas were freely, voluntarily, and knowingly entered and whether the sentence was illegal, an erroneous exercise of discretion, or otherwise based on improper factors. Having conducted an independent review, this court is satisfied that the no-merit report properly analyzes the issues it raises as without merit.

The trial court engaged in an appropriate plea colloquy and made the necessary advisements and findings required by WIS. STAT. § 971.08(1)(a), *State v. Bangert*, 131 Wis. 2d 246, 266-72, 389 N.W.2d 12 (1986), and *State v. Hampton*, 2004 WI 107, ¶38, 274 Wis. 2d 379, 683 N.W.2d 14. The court ascertained Miron's understanding of the parties' plea agreement and that "if given consecutive sentences, [she] could be fined up to \$20,000 and given a period of initial confinement of up to six years followed by a period of extended supervision of up to six years." The trial court recited the offense elements to Miron and confirmed that she understood

each element. Additionally, the trial court ascertained that Miron signed the plea questionnaire and that she read and understood the “entire form.” The court specifically directed Miron’s attention to the form’s list of constitutional rights and verified that she read and understood each one and knew she was giving up each right by pleading guilty. The trial court properly relied on Miron’s signed plea form to establish her knowledge and understanding of the constitutional rights waived by and the direct consequences of her guilty pleas. See *State v. Hoppe*, 2009 WI 41, ¶¶30-32, 42, 317 Wis. 2d 161, 765 N.W.2d 794 (although a plea questionnaire and waiver of rights form may not be relied upon as a substitute for a substantive in-court personal colloquy, it may be referred to and used at the plea hearing to ascertain the defendant’s understanding and knowledge at the time the plea is taken); *State v. Moerderdoerfer*, 141 Wis. 2d 823, 827-28, 416 N.W.2d 627 (Ct. App. 1987).

In fashioning the sentence, the court considered the seriousness of the offense, the defendant’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. The weight to be given to each factor is committed to the trial court’s discretion. *Id.* As to Miron’s character, the trial court stated, “I agree this is all in your favor,” including her lack of any prior record or substance abuse issues, and her established employment and educational history. In terms of offense severity, the trial court noted that the crimes were financial in nature but emphasized that Miron used the cards several different times and stole a “significant amount of money.” The court also considered the negative impact of Miron’s actions on her direct supervisor, who was “very upset” and felt shocked and betrayed. With regard to public protection, the trial court determined there was a need for general deterrence to send the message, “if you’re going to abuse the trust of your employer, there’s going to be a serious penalty to pay.” In addition to deterrence, the court identified the need to

punish Miron as an important sentencing objective, and found that probation would unduly depreciate the seriousness of the offense. The sentence was a demonstrably proper exercise of discretion. *See id.* (a sentencing court must consider the principal objectives of sentencing, including the protection of the community, the punishment and rehabilitation of the defendant, and deterrence to others); *State v. Gallion*, 2004 WI 42, ¶41, 270 Wis. 2d 535, 678 N.W.2d 197 (the court is to identify the general objectives of most import). Further, we cannot conclude that each four-year sentence when measured against the possible six-year maximum is so excessive or unusual as to shock public sentiment. *See Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975).

Our review of the record discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit report, affirms the judgment, and discharges appellate counsel of the obligation to represent Miron further in this appeal.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Katie R. York is relieved from further representing Kristine Lynn Miron. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals