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August 23, 2016

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

2016AP45-CRNM State of Wisconsin v. Katrina Ann Blasing-Goslin
(L. C. No. 2015CF26)

Before Stark, P.J., Hruz and Seidl, JJ.

Counsel for Katrina Blasing-Goslin has filed a no-merit report concluding no grounds exist to challenge Blasing-Goslin's conviction for one count of party to the crime of child neglect resulting in great bodily harm. Blasing-Goslin was informed of her right to file a response to the no-merit report and has not responded. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude there is no arguable merit to any

issue that could be raised on appeal. Therefore, we summarily affirm the judgment of conviction. *See* WIS. STAT. RULE 809.21.¹

The State charged Blasing-Goslin with party to the crime of child neglect resulting in great bodily harm for injuries sustained by her four-month-old child. In exchange for her no-contest plea to the crime charged, the State agreed to join in defense counsel's recommendation for an imposed and stayed six-year sentence, consisting of three years' initial confinement and three years' extended supervision, and three years' probation with various conditions. The circuit court ultimately imposed the maximum twelve and one-half year sentence, consisting of seven and one-half years' initial confinement and five years' extended supervision.

The record discloses no arguable basis for withdrawing Blasing-Goslin's no-contest plea. The circuit court's plea colloquy, as supplemented by a plea questionnaire and waiver of rights form that Blasing-Goslin completed, informed Blasing-Goslin of the elements of the offense, the penalties that could be imposed, and the constitutional rights she waived by entering a no-contest plea. Blasing-Goslin indicated that any medications she was then taking did not interfere with her ability to understand the proceeding. The court confirmed Blasing-Goslin's understanding that it was not bound by the terms of the plea agreement, *see State v. Hampton*, 2004 WI 107, ¶2, 274 Wis. 2d 379, 683 N.W.2d 14, and also advised Blasing-Goslin of the deportation consequences of her plea, as mandated by WIS. STAT. § 971.08(1)(c). Additionally, the court found that a sufficient factual basis existed in the criminal complaint to support the conclusion

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

that Blasing-Goslin committed the crime charged. The record shows the plea was knowingly, voluntarily, and intelligently made. See *State v. Bangert*, 131 Wis. 2d 246, 257, 389 N.W.2d 12 (1986).

The record discloses no arguable basis for challenging the sentence imposed. In imposing the maximum sentence authorized by law, the court considered the seriousness of the offense; Blasing-Goslin's character; the need to protect the public; and the mitigating factors Blasing-Goslin raised. See *State v. Gallion*, 2004 WI 42, ¶¶39-46, 270 Wis. 2d 535, 678 N.W.2d 197. The court placed particular emphasis on the seriousness of the crime, emphasizing the extent of the child's injuries, which included: subdural hematomas; bilateral retinal hemorrhages; bilateral parietal skull fractures; two bite injuries; multiple healing rib fractures; metaphyseal fractures of extremities; extensive bruising; and intra-oral injury. The court also noted the examining physician's opinion that the child's injuries suggested he suffered more than one incident of abuse, and that the delay in seeking medical attention made the child's condition worse and could have resulted in his death.

The circuit court noted that Blasing-Goslin lived with roommates in a house known for drug activity; left her infant son in the care of a roommate; and did not promptly seek medical attention when she became aware of the injuries. The court determined there needed to be a deterrent effect of the sentence, stating: "I think people need to know if you are going to be responsible for a child, you better be responsible for that child and you can't pass off your responsibilities the way you did with this child here." The court ultimately rejected the joint recommendation, concluding it depreciated "how serious this situation was." Under these circumstances, it cannot reasonably be argued that Blasing-Goslin's sentence is so excessive as to shock public sentiment. See *Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975).

We note that the circuit court briefly mentioned the COMPAS risk assessment at sentencing, stating: “And we’ve got this COMPAS thing these days. It says you are a high risk for general recidivism. Matter of fact, most of these things they show on here are probable or highly probable so there’s a lot of criminogenic needs that you have.” In *State v. Loomis*, 2016 WI 68, ¶¶98-99, ___ Wis. 2d ___, 881 N.W.2d 749, our supreme court held:

[A] sentencing court may consider a COMPAS risk assessment at sentencing subject to the following limitations. As recognized by the Department of Corrections, the PSI instructs that risk scores may not be used: (1) to determine whether an offender is incarcerated; or (2) to determine the severity of the sentence. Additionally, risk scores may not be used as the determinative factor in deciding whether an offender can be supervised safely and effectively in the community.

Importantly, a circuit court must explain the factors in addition to a COMPAS risk assessment that independently support the sentence imposed. A COMPAS risk assessment is only one of many factors that may be considered and weighed at sentencing.

While the circuit court referenced COMPAS at sentencing, the record shows it was not “determinative” of the sentence imposed. It merely reinforced the circuit court’s assessment of other, independent factors. Accordingly, we conclude that any challenge to the sentence based on the circuit court’s reference to COMPAS would lack arguable merit.

Our independent review of the record discloses no other potential issue for appeal. Therefore,

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

IT IS FURTHER ORDERED that attorney Timothy T. O'Connell is relieved of further representing Blasing-Goslin in this matter. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals