OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS
110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688
Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT II

October 5, 2016

To:

Hon. Richard J. Nuss
Circuit Court Judge
Fond du Lac County Courthouse
160 South Macy Street
Fond du Lac, WI 54935

Eric Toney
District Attorney
Fond du Lac County
160 South Macy Street
Fond du Lac, WI 54935

Ramona Geib
Clerk of Circuit Court
Fond du Lac County Courthouse
160 South Macy Street
Fond du Lac, WI 54935

Charlotte Gibson
Department of Justice
Criminal Appeals Unit
P.O. Box 7857
Madison, WI 53707-7857

Daniel Goggin II
Goggin & Goggin
P.O. Box 646
Neenah, WI 54957-0646

Shannon L. Rogler 252743
Green Bay Corr. Inst.
P.O. Box 19033
Green Bay, WI 54307-9033

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

2016AP63-CRNM State of Wisconsin v. Shannon L. Rogler (L.C. # 2013CF682)

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

Shannon L. Rogler appeals from a judgment convicting him of various crimes. Rogler'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). Rogler received a copy of the report, was advised of his right to file a response, and has elected not to do so. Counsel then filed an additional

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

response per this court's order.[2] After reviewing the record and counsel's report and response, we conclude that there are no issues with arguable merit for appeal. Therefore, we summarily affirm the judgment. WIS. STAT. RULE 809.21.

Rogler was convicted following guilty pleas to burglary, arson, failure to comply with an officer's attempt to take him into custody, and two counts of first-degree recklessly endangering safety with use of a dangerous weapon. According to the complaint, Rogler broke into a house he had previously owned[3] and set it on fire. When police came to arrest him at his apartment, an armed standoff ensued. Rogler fired shots at two officers, nearly killing one of them. An additional count of attempted first-degree intentional homicide was dismissed and read-in. For his actions, the circuit court imposed an aggregate sentence of forty years of initial confinement followed by twenty-seven years of extended supervision. This no-merit appeal follows.

The no-merit report addresses whether Rogler's guilty pleas were knowingly, voluntarily, and intelligently entered. The record shows that the circuit court engaged in a colloquy with Rogler that satisfied the applicable requirements of WIS. STAT. § 971.08(1) and ***State v. Brown***, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906. In addition, signed plea questionnaire and waiver of rights forms were entered into the record. The court referred to those forms when discussing the rights Rogler was giving up by entering his pleas. This was permissible under

[2] We required counsel to file a response addressing the issue of restitution. At sentencing, the circuit court granted the State's request for restitution. However, the State withdrew its request after sentencing. Despite this fact, the judgment of conviction indicated that Rogler was still obligated to pay the State restitution. In his response, counsel includes a copy of an amended judgment of conviction showing that the obligation of restitution has been removed. Given counsel's response, we are satisfied that the issue of restitution is not one of arguable merit.

[3] The house had been foreclosed upon and was vacant.

State v. Moederndorfer, 141 Wis. 2d 823, 827-29, 416 N.W.2d 627 (Ct. App. 1987). We agree with counsel that a challenge to the entry of Rogler's guilty pleas would lack arguable merit.

The no-merit report also addresses whether the circuit court properly exercised its discretion at sentencing. The record reveals that the court's sentencing decision had a "rational and explainable basis." ***State v. Gallion***, 2004 WI 42, ¶76, 270 Wis. 2d 535, 678 N.W.2d 197 (citation omitted). In making its decision, the court considered the seriousness of the offenses, Rogler'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 case, which were aggravated by the nature of the crimes and the read-in offense, the sentence imposed does not "shock public sentiment and violate the judgment of reasonable people concerning what is right and proper." ***Ocanas v. State***, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). Accordingly, we agree with counsel that a challenge to Rogler's sentence would lack arguable merit.

Finally, the no-merit report addresses whether Rogler was afforded the effective assistance of counsel. There is nothing in the record to suggest that Rogler's trial counsel was ineffective. Consequently, we are satisfied that the no-merit report properly analyzes this issue as without merit, and we will not discuss it further.

Our independent review of the record does not disclose any potentially meritorious issue for appeal. 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 Daniel R. Goggin, II, of further representation in this matter.

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 Daniel R. Goggin, II, is relieved of further representation of Rogler in this matter.

Diane M. Fremgen
Clerk of Court of Appeals