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DISTRICT IV

December 21, 2016

To:

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

2015AP2101-CRNM State of Wisconsin v. Jon T. Shriver (L.C. # 2014CF589)

Before Lundsten, Higginbotham, and Blanchard, JJ.

Attorney Lane Fitzgerald, appointed counsel for John Shriver, has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2013-14)¹ and *Anders v. California*, 386 U.S. 738, 744 (1967). Counsel provided Shriver with a copy of the report, and he filed several responses to it. We conclude that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. After our independent review of the record, we conclude there is no arguable merit to any issue that could be raised on appeal.

Shriver pled guilty to one count of possession of child pornography. The circuit court imposed a sentence of three years of initial confinement and three years of extended supervision.

The no-merit report addresses whether the court erred in denying Shriver's suppression motion. The court found that Shriver voluntarily gave consent for agents to enter his residence and review the contents of his computers, and that the agents' testimony on those points was more credible than Shriver's. Without attempting to recite the facts here, we conclude that it would be frivolous to argue that the court erred in finding the agents more credible. The responses that Shriver submitted on this topic do not change our conclusion.

The no-merit report addresses whether Shriver's plea was entered knowingly, voluntarily, and intelligently. The plea colloquy sufficiently complied with the requirements of *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906, and WIS. STAT. § 971.08 relating to the nature of the charge, the rights Shriver was waiving, and other matters. The record shows no other ground to withdraw the plea. There is no arguable merit to this issue.

The no-merit report addresses whether the court erroneously exercised its sentencing discretion. However, because the court imposed the jointly recommended sentence, there is no merit to contesting the sentence on appeal. *State v. Scherreiks*, 153 Wis. 2d 510, 518, 451 N.W.2d 759 (Ct. App. 1989).

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

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

For counsel's future reference, we note that an appendix is not required for a no-merit report. The court has the record, and it is our obligation to review the entire record. An appendix serves little purpose in this context.

Therefore,

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

IT IS FURTHER ORDERED that Attorney Fitzgerald is relieved of further representation of Shriver in this matter. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals