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DISTRICT II

February 22, 2017

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

2016AP1397-CRNM State of Wisconsin v. Janet L. Blaine (L.C. #2015CF13)

Before Neubauer, C.J., Gundrum and Hagedorn, JJ.

Janet L. Blaine appeals from a judgment convicting her of operating a motor vehicle without owner's consent (count 1), attempting to flee or elude an officer (count 2), and two counts of misdemeanor bail jumping (counts 3 and 4). Her appellate counsel, J. Dennis Thornton, filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2015-16)¹ and *Anders v. California*, 386 U.S. 738 (1967). Blaine was advised of her right to file a response but, despite her request for an extension of time being granted, she has not done so. After reviewing the no-

merit report and the record, we conclude there are no issues with arguable merit for appeal and therefore summarily affirm the judgment. *See* WIS. STAT. RULE 809.21.

Blaine and JY, the victim, were roommates. He occasionally allowed her to use his Jeep Grand Cherokee. One Thursday morning, JY specifically told Blaine he did not want her to take the Jeep that day. Blaine left with the Jeep. She texted him a few times over the next two days, saying there had been “an accident” and she was in Illinois. He notified law enforcement on Saturday. She returned on Tuesday. He again told her to leave the vehicle. Blaine drove off in the Jeep. JY filed a missing vehicle report. Blaine came back on Wednesday but again took the Jeep. JY called the authorities again. Concluding that JY had rescinded any prior consent given to Blaine to use the vehicle, police entered it as stolen. Law enforcement officials from several jurisdictions gave chase for miles, sirens and emergency lights activated. Blaine stopped only after authorities employed tire deflation devices.

A jury found Blaine guilty of all four counts. On each of counts 1 and 2, the court ordered three years’ probation and imposed and stayed one year of initial confinement and two years of extended supervision to be served concurrently. On each of counts 3 and 4, the court imposed a seven-month sentence, concurrent with each other and with counts 1 and 2.

Counsel’s no merit report raises nine possible arguments—whether: (1) the complaint did not state probable cause, (2) the complaint was not issued in a timely manner and the initial appearance was not timely held, (3) Blaine’s trial was not fair, (4) she was denied her right to a speedy trial, (5) the trial court improperly exercised its sentencing discretion, (6) she was denied

¹ All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

the effective assistance of counsel, (7) the evidence was insufficient to sustain her conviction, (8) this court should grant a new trial under WIS. STAT. § 752.35 or on the basis that the real controversy was not fully tried, and (9) restitution was improperly taken from bail. Upon review of the record, we are satisfied that the no-merit report properly analyzes the issues it raises. We thus will not address them further.

We also have considered whether any issue arose in conjunction with voir dire, whether there was any improper argument during opening statements or closing arguments, and whether the jury instructions were proper. In addition, we have considered whether two objections Blaine raised pose potential issues. She objected to JY remaining in the courtroom after he testified, on grounds that she had filed for an injunction against him, and to the court ordering a PSI or, at a minimum, that the agent make no sentence recommendation. The court properly ruled that the witness sequestration statute does not apply to victims. *See* WIS. STAT. § 906.15(2)(d). Securing a PSI “is an integral part of the sentencing function and is solely within the judicial function.” *State v. Washington*, 2009 WI App 148, ¶9, 321 Wis. 2d 508, 775 N.W.2d 535. We conclude no issue of arguable merit arises from any of these points. Therefore,

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

IT IS FURTHER ORDERED that Attorney J. Dennis Thornton is relieved of further representing Blaine in this matter.

Diane M. Fremgen
Clerk of Court of Appeals