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DISTRICT IV

February 27, 2017

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

2016AP754-CR

State of Wisconsin v. Camren K. Parker (L.C. # 2014CF415)

Before Lundsten, Sherman, and Blanchard, JJ.

Camren K. Parker pled guilty to one count of delivery of tetrahydrocannabinols, less than 200 grams. A second count of the same crime was dismissed and read in at sentencing. At sentencing, the parties jointly asked the circuit court to order that Parker be eligible for expunction under WIS. STAT. § 973.015(1m)(a)1. (2015-16).¹ The court declined to order expunction. The circuit court denied Parker's postconviction motion on the same issue and

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

Parker now appeals. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. We affirm.

WISCONSIN STAT. § 973.015(1m)(a)1. permits a court to order at sentencing that a conviction be expunged upon successful completion of the sentence if “the court determines the person will benefit and society will not be harmed” by the expungement.² The circuit court’s decision is discretionary, and this court will not disturb that decision unless the court erroneously exercised its discretion. *State v. Helmbrecht*, 2017 WI App 5, ¶8, ___ Wis. 2d ___, ___ N.W.2d ___ (2016). Two factors are relevant: “(1) whether the person will benefit from expungement[;] and (2) whether society will be harmed by the expungement.” *Id.*, ¶11. The court “should set forth in the record the facts it considered and the rationale underlying its decision for deciding whether to grant or deny expungement.” *Id.*, ¶12.

In this case, the sentencing court acknowledged that Parker would benefit from expunction. However, the court also stated that society would be harmed if Parker’s conviction were expunged. The court pointed to Parker’s self-proclaimed status as the person who was supplying the drugs.³ The court then addressed the context for the crime—the sale of marijuana in a University of Wisconsin-Whitewater dormitory. The court considered the negative impact on the university community of easy access to marijuana. The court stated that “[s]ociety would be harmed when the person who was responsible for the flow of drugs” was eligible for

² It is undisputed that the statutory conditions for expungement eligibility are met in this case.

³ In his postconviction motion, Parker argued that the court’s characterization was inaccurate. Parker does not make that argument on appeal.

expunction. The court emphasized the value of deterring other potential drug dealers in denying expunction here.

Parker argues that the two factors identified by the court are relevant to any drug prosecution, so the court's decision was merely "a blanket determination that anyone dealing drugs should not be eligible for expunction." We disagree with Parker's characterization of the court's comments. Many sentencing rationales share common themes, such as the need to protect the public from future criminal acts and that incarceration is warranted because of the harm suffered by the victim. The fact that a particular rationale may apply to many defendants or to many crimes does not transform the rationale into a "blanket determination" devoid of the exercise of discretion. *See, e.g., id.*, ¶14 (denial of expunction supported by court's concern regarding society's interest in deterring methamphetamine use).

In this case, the court's sentence was sufficiently tailored to Parker and his conduct. The court's focus on the university backdrop to Parker's drug dealing, the vulnerabilities of Parker's target market, and society's interest in limiting access to drugs by college students was not improper. The court's expunction decision balanced relevant factors against the factual context of Parker's crime. The court properly exercised its discretion.

Upon the foregoing reasons,

IT IS ORDERED that the judgment of conviction and postconviction order are summarily affirmed.

Diane M. Fremgen
Clerk of Court of Appeals