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May 17, 2017

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

2016AP1928-CRNM	State of Wisconsin v. Johvan M. Searcy (L.C. #2015CM905)
2016AP1929-CRNM	State of Wisconsin v. Johvan M. Searcy (L.C. #2015CM1201)

Before Gundrum, J.¹

In these consolidated cases, Johvan M. Searcy appeals from judgments convicting him of two counts of knowingly violating a domestic abuse injunction and two counts of misdemeanor bail jumping. Searcy's appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 and *Anders v. California*, 386 U.S. 738 (1967). Searcy filed a response. After reviewing the record, counsel's report, and Searcy's response, we conclude that there are no issues with

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2) (2015-16). All references to the Wisconsin Statutes are to the 2015-16 version.

arguable merit for appeal. Therefore, we summarily affirm the judgments. WIS. STAT. RULE 809.21.

In 2015, the State filed criminal complaints charging Searcy with two counts of knowingly violating a domestic abuse injunction and two counts of misdemeanor bail jumping. The charges stemmed from allegations that Searcy had called and texted his estranged wife on multiple occasions, which was prohibited by both a domestic abuse injunction and a bond condition in a related case.

The matters proceeded to trial. There, Searcy waived his right to a jury trial. He also waived his right to testify. The circuit court heard from two State witnesses and considered several exhibits, including the domestic abuse injunction and bond condition. At the conclusion of trial, the court found Searcy guilty on all four counts. It subsequently imposed and stayed an aggregate sentence of fourteen months in jail and placed Searcy on probation for two years. These no-merit appeals follow.

The no-merit report addresses whether Searcy's right to a jury trial and right to testify were knowingly, voluntarily, and intelligently waived. When a defendant seeks to waive the right to a jury trial, a circuit court must conduct a colloquy with the defendant. *State v. Anderson*, 2002 WI 7, ¶23, 249 Wis. 2d 586, 638 N.W.2d 301. The same is true when a defendant seeks to waive the right to testify. *State v. Weed*, 2003 WI 85, ¶40, 263 Wis. 2d 434, 666 N.W.2d 485. Here, the circuit court conducted adequate colloquies with Searcy regarding both rights. Accordingly, we agree with counsel that any challenge to the validity of Searcy's waivers would lack arguable merit.

The no-merit report also addresses whether the evidence at trial was sufficient to support Searcy's convictions. In considering the sufficiency of the evidence, we cannot reverse a criminal conviction unless the evidence, viewed most favorably to the State and the conviction, is so lacking in force and probative value that no reasonable trier of fact could have found guilt beyond a reasonable doubt. *State v. Poellinger*, 153 Wis. 2d 493, 507, 451 N.W.2d 752 (1990). Our review of the trial transcript persuades us that the State produced ample evidence to convict Searcy of his crimes. We agree with counsel that any challenge to the sufficiency of the evidence would lack arguable merit.

Finally, the no-merit report 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). Moreover, the decision does not "shock public sentiment and violate the judgment of reasonable people concerning what is right and proper under the circumstances." *Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). We agree with counsel that a challenge to the court's sentencing decision would lack arguable merit.

As noted, Searcy filed a response to counsel's no-merit report. In it, he cites various accomplishments, including work towards an undergraduate degree. He then attempts to justify his behavior by downplaying the basis for the domestic abuse injunction and bond condition and noting that his estranged wife had contacted him too. Reviewing Searcy's response, we are satisfied that it does not present an issue of arguable merit.

Our independent review of the record does not disclose any potentially meritorious issue for appeal.² 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 Gregory Bates of further representation in these matters.

Upon the foregoing reasons,

IT IS ORDERED that the judgments of the circuit court are summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Gregory Bates is relieved of further representation of Searcy in these matters.

IT IS FURTHER ORDERED that this summary disposition order will not be published and may not be cited under WIS. STAT. RULE 809.23(3)(b).

Diane M. Fremgen
Clerk of Court of Appeals

² During the circuit court proceedings, a question arose as to Searcy's competency to proceed. Ultimately, the circuit court found Searcy competent based upon the opinion of a court-appointed examiner. Searcy did not dispute that finding, and we conclude that any challenge to the court's competency determination would lack arguable merit.