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DISTRICT II

July 26, 2017

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

2017AP221-CRNM State of Wisconsin v. John W. Rehlinger (L.C. #2014CF717)

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

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

John W. Rehlinger appeals from a judgment convicting him of armed robbery with use of force. His appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2015-16)¹ and *Anders v. California*, 386 U.S. 738 (1967). Rehlinger did not exercise his right to file a response. After reviewing the no-merit report and the record, we conclude there are no issues

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

with arguable merit for appeal and therefore summarily affirm the judgment. *See* WIS. STAT. RULE 809.21.

While wearing a face mask and ski goggles, Rehlinger robbed a Waukesha County convenience store at gunpoint. He ordered the clerk to give him a carton of cigarettes and “all your money.” Rehlinger pled no contest to armed robbery with use of force. The charges in two other cases—an armed robbery at a different convenience store, and the possession of marijuana and drug paraphernalia—were dismissed but read in at sentencing. The court imposed a twenty-year prison sentence, consisting of ten years’ initial confinement and ten years’ extended supervision, consecutive to any other case and to any other sentence.²

The no-merit report first addresses whether a nonfrivolous argument could be made that Rehlinger’s no-contest plea was not knowingly, voluntarily, and intelligently entered. The record shows that the circuit court engaged in a colloquy with Rehlinger 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, the plea questionnaire and waiver of rights form Rehlinger signed was entered into the record, and confirmed that he fully understood the consequences of pleading no contest because he had been through the process in the past “[m]ore [times] than I can count.” The court also verified that his twenty-seven daily medications in no

² Six days after committing this armed robbery, Rehlinger held up a Washington County restaurant and attacked an employee. He was charged with attempted first-degree homicide and recklessly endangering safety.

way interfered with his ability to understand what was happening.³ We agree with counsel that a challenge to the entry of Rehlinger's no-contest plea would lack arguable merit.

We also agree with counsel's determination that there exist no potentially meritorious issues for appeal or postconviction motion as to whether the court imposed an illegal sentence or otherwise erred in its exercise of sentencing discretion. The record demonstrates that the circuit court specified on the record the objectives of the sentence, which included the protection of the community and impact on the specific victims, punishment of the defendant, and Rehlinger's rehabilitation needs, *see State v. Gallion*, 2004 WI 42, ¶40, 270 Wis. 2d 535, 678 N.W.2d 197, and the primary and other appropriate sentencing factors that promoted those objectives, *see State v. Harris*, 119 Wis. 2d 612, 622, 350 N.W.2d 633 (1984). The court's sentencing remarks articulated in great detail its reasons for imposing the lengthy sentence it did, despite Rehlinger's challenges, "some ... readily apparent."

At the time of this offense, the frequency and violence of Rehlinger's crimes were escalating. The sentence imposed does not "shock public sentiment [or] violate the judgment of reasonable people concerning what is right and proper under the circumstances." *See Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). A challenge to his sentence by further postconviction or appellate proceedings would have no arguable merit.

Our independent review of the record satisfies us that there are no other possible issues with arguable merit for appeal.

³ Rehlinger was shot by police when they responded to the Washington County hold-up. He is now a quadriplegic with many resultant health problems.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Daniel P. Murray is relieved from further representing Rehlinger in this appeal. *See* WIS. STAT. RULE 809.32(3).

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Diane M. Fremgen
Clerk of Court of Appeals