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DISTRICT III

April 25, 2018

To:

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

2017AP449-CRNM State of Wisconsin v. Rebecca L. Malueg (L. C. No. 2016CF93)

Before Stark, P.J., Hruz and Seidl, JJ.

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).

Counsel for Rebecca Malueg filed a no-merit report concluding no grounds exist to challenge Malueg's convictions for first-degree reckless injury and operating a firearm while intoxicated, both as domestic abuse incidents. Malueg was informed of her right to file a response to the no-merit report and has not responded. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude there is no

arguable merit to any issue that could be raised on appeal. Therefore, the judgment of conviction is summarily affirmed. *See* WIS. STAT. RULE 809.21 (2015-16).¹

The State charged Malueg with attempted first-degree intentional homicide and possession of a firearm while intoxicated, both as acts of domestic abuse. The charges arose from allegations that after a night out drinking, Malueg shot her husband, Larry.² According to Larry, the couple returned home after midnight and began arguing because Malueg wanted to return to the bar. Larry claimed that he tried to get Malueg to stay in the bedroom to keep her from leaving the residence, as Malueg “was very drunk and was looking to go back to the bar and fight.” Larry reported that when he opened the bedroom door to see what Malueg was doing, he saw Malueg standing on the bed with a hunting rifle pointed at him. As Larry shut the door, he heard a gunshot and realized he had been shot in the arm.

When police arrived at the scene, Malueg stated she and her husband had been “fighting and arguing” after a night out and she had told her husband “to get out and he wouldn’t get out.” Malueg added that she grabbed a gun and pointed it at her husband, not realizing it was loaded, and the gun discharged. A responding officer smelled a “strong odor of intoxicants” when speaking to Malueg.

Malueg entered guilty pleas to possession of a firearm while intoxicated and an amended charge of first-degree reckless injury, both as domestic abuse incidents. The parties remained free to argue at sentencing. Out of a maximum possible sentence of twenty-five years and nine

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

² Pursuant to WIS. STAT. RULE 809.86(4), we use a pseudonym instead of the victim’s name.

months, the circuit court imposed concurrent sentences resulting in four years' initial confinement and four years' extended supervision.

The no-merit report addresses whether Malueg knowingly, intelligently, and voluntarily entered her guilty pleas, and whether the circuit court properly exercised its sentencing discretion. Upon reviewing the record, we agree with counsel's description, analysis, and conclusion that any challenge to Malueg's pleas or sentences would lack arguable merit. Our independent review of the record discloses no other potential issue for appeal.

Therefore,

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

IT IS FURTHER ORDERED that attorney Erica L. Bauer is relieved of her obligation to further represent Malueg in this matter. *See* WIS. STAT. RULE 809.32(3).

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

Sheila T. Reiff
Clerk of Court of Appeals