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May 9, 2018

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

2017AP2251-CRNM State of Wisconsin v. Jennifer A. Willms (L.C. # 2016CF34)

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).

Jennifer A. Willms appeals from a judgment convicting her of theft in a business setting. Willms' 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). Willms received a copy of the report, was

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

advised of her right to file a response, and has elected not to do so. After reviewing the record and counsel's report, we conclude that there are no issues with arguable merit for appeal. Therefore, we summarily affirm the judgment. WIS. STAT. RULE 809.21.

Willms was convicted following a guilty plea² to theft in a business setting. The charge stemmed from allegations that she embezzled over \$135,000 from her former employer over the course of five years. The circuit court imposed a sentence of three years of initial confinement and three years of extended supervision. This no-merit appeal follows.

The no-merit report addresses whether Willms' guilty plea was properly entered. The record shows that the circuit court engaged in a colloquy with Willms 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 906.³ In addition, a signed plea questionnaire and waiver of rights form was submitted into the record. The court referred to that form when discussing the rights Willms was giving up by entering her plea. This was permissible under *State v. Moederndorfer*, 141 Wis. 2d 823, 827-29, 416 N.W.2d 627 (Ct. App. 1987). We agree with counsel that a challenge to the entry of Willms' guilty plea would lack arguable merit.

The no-merit report also addresses whether the circuit court properly exercised its discretion at sentencing. The records reveal that the court's sentencing decision had a "rational

² The judgment of conviction indicates that Willms entered a not guilty plea. Although that was her initial plea, she subsequently changed it to guilty.

³ There is one exception to this. The circuit court failed to provide the deportation warning required by WIS. STAT. § 971.08(1)(c). This failure does not present a potentially meritorious issue for appeal, however, as there is no indication that Willms' plea is likely to result in her deportation, exclusion from admission to this country, or denial of naturalization. Indeed, the presentence investigation report states that Willms was born in Wisconsin.

and explainable basis.” *State v. Gallion*, 2004 WI 42, ¶76, 270 Wis. 2d 535, 678 N.W.2d 197 (citation omitted). In making its decision, the court considered the seriousness of the offense, Willms’ character, and the need to protect the public. *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. Under the circumstances of the case, which were aggravated by the scope of the theft and its effect on the employer, the sentence imposed does not “shock public sentiment and violate the judgment of reasonable people concerning what is right and proper.” *Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). We agree with counsel that a challenge to Willms’ sentence would lack arguable merit.

Our independent review of the record does not disclose any potentially meritorious issue for appeal. 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 this matter.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Gregory Bates is relieved of further representation of Willms in this matter.

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

Sheila T. Reiff
Clerk of Court of Appeals