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May 23, 2018

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Anthony J. Langlois, #333981
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You are hereby notified that the Court has entered the following opinion and order:

2017AP179-CRNM State of Wisconsin v. Anthony J. Langlois (L.C. # 2013CF1)

Before Neubauer, C.J., Reilly, P.J., and Gundrum, 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).

Anthony J. Langlois appeals from a judgment of conviction entered upon his no contest pleas to two counts of identity theft. His appellate counsel has filed a no-merit report pursuant to

WIS. STAT. RULE 809.32 (2015-16),¹ and *Anders v. California*, 386 U.S. 738 (1967), seeking to withdraw from Langlois' representation. Langlois filed a response asserting various claims of error, and appellate counsel filed a supplemental no-merit report addressing Langlois' response. Upon consideration of the original and supplemental no-merit reports, Langlois' response, and an independent review of the record, we conclude that the judgment may be summarily affirmed because there is no arguable merit to any issue that could be raised on appeal. *See* WIS. STAT. RULE 809.21.

Langlois was charged with two counts of felony identity theft, specifically, the unlawful use of an entity's identifying information or documents in order to obtain money, contrary to WIS. STAT. § 943.203(2)(a), and with five counts of misdemeanor theft. The complaint alleged that Langlois had fraudulently solicited and used funds on behalf of charitable organizations for more than one year. Pursuant to a negotiated settlement, Langlois agreed to plead no contest to the identity theft charges. The State agreed to dismiss and read in the five theft counts along with all charges in a separate circuit court case, and an uncharged theft referral from the sheriff's department. In addition, the State agreed to recommend concurrent sentences. At sentencing, the court imposed three years' initial confinement and three years' extended supervision on each count, to be served consecutively.

The no-merit report addresses the potential issues of whether Langlois has grounds to withdraw his pleas and if the circuit court properly exercised its sentencing discretion. Appellate counsel concludes that any challenge to the plea-taking or sentencing procedures in this case

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

would lack arguable merit. In his response to the no-merit report, Langlois states he does “not have anything further to add to the two issues presented by my appellate attorney.” Having independently reviewed the record, we agree with appellate counsel’s description, analysis and conclusion that the circuit court properly accepted Langlois’ no contest pleas,² and exercised its sentencing discretion.

In his response to the no-merit report, Langlois alleges that the presiding judge had a conflict of interest and was biased against him in violation of due process. Langlois asserts that the judge was biased because he had prosecuted Langlois in the past, he acknowledged his affiliation with the non-profit agencies Langlois had “cheated out of money,” and he “hurled many degrading insults” at Langlois during sentencing. We are satisfied that appellate counsel’s supplemental no-merit report fully and accurately analyzes these claims as without arguable merit. Though the presiding judge prosecuted Langlois in 1999 and 2002, nothing in the record suggests that the judge had any concern about his ability to be impartial in Langlois’ 2013 case, *see* WIS. STAT. § 757.19(2)(g), or that he remembered Langlois from the prior cases. Similarly, nothing in the record suggests that the presiding judge had any personal involvement with the non-profit organizations victimized by Langlois. The judge’s involvement with charitable organizations in general does constitute either actual bias or the appearance of bias. *Cf. State v.*

² As discussed in appellate counsel’s no-merit report, the plea-taking court misstated the maximum fine as \$25,000 rather than \$20,000, and neglected to provide the WIS. STAT. § 971.08(1)(c) deportation warning. As to the fine, not every minor deviation or misstatement gives rise to an arguably meritorious plea-withdrawal claim. *See State v. Taylor*, 2013 WI 34, ¶¶35-39, 347 Wis. 2d 30, 829 N.W.2d 482; *State v. Cross*, 2010 WI 70, ¶5, 326 Wis. 2d 492, 786 N.W.2d 64. The plea questionnaire correctly stated the maximum fine amount and Langlois’ response does not dispute the propriety of his plea. In terms of the deportation warning, appellate counsel asserts that its omission does not give rise to an arguable issue because Langlois cannot show that his plea is likely to result in deportation, exclusion from admission to this country, or denial of naturalization. *See* § 971.08(2). Langlois’ response does not dispute counsel’s representation.

Herrmann, 2015 WI 84, ¶¶60, 66, 364 Wis. 2d 336, 867 N.W.2d 772 (defendant convicted of drunk driving offenses failed to show an appearance of bias where sentencing judge discussed her own sister's death in an accident caused by a drunk driver; though the judge's remarks were personal, "they were used in an attempt to illustrate the seriousness of the crime and the need to deter drunk driving in our society"). Further, though the sentencing court did use what appellate counsel's supplemental no-merit report describes as "harsh language," we agree with appellate counsel that the court's remarks do not give rise to an issue of arguable merit.

Langlois also claims that the circuit court's failure in 2015 "to go along with [a] global resolution plea between Washington and Waukesha Counties" involving cases other than the instant one establishes judicial bias. As stated in appellate counsel's supplemental no-merit report, Langlois is referring to a different Washington County case, and to a hearing held eighteen months after Langlois was sentenced in the instant case. We agree with appellate counsel's analysis and conclusion that no arguably meritorious issue arises from this claim.

Langlois' response to the no-merit report also raises two related claims challenging evidence found during a consent search of his home. According to Langlois, (1) the search exceeded the scope of his consent, and (2) his "drug induced" state prevented him from giving valid consent. We are satisfied that appellate counsel's supplemental no-merit report properly analyzes these claims as without arguable merit, and we will not discuss them further.

Our independent review of the record reveals no other potential issues of arguable merit. Therefore,

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

IT IS FURTHER ORDERED that Attorney Suzanne L. Hagopian is relieved from further representing Anthony J. Langlois 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