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May 25, 2018

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

2017AP1966-CRNM State of Wisconsin v. Craig A. Gokey (L.C. # 2016CF196)

Before Brennan, P.J., Kessler and Brash, 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).

Craig A. Gokey appeals a judgment convicting him of two counts of possession of child pornography. Appointed appellate counsel, Tristan S. Breedlove,¹ has filed a no-merit report

¹ Hannah Schieber Jurss substituted as counsel for Tristan S. Breedlove on March 2, 2018.

pursuant to WIS. STAT. RULE 809.32 (2015-16),² and *Anders v. California*, 386 U.S. 738 (1967). Gokey received a copy of the report, and was advised of his right to file a response, but he has not responded. After considering the report and conducting an independent review of the record, we conclude that there are no issues of arguable merit that could be raised on appeal. *See* WIS. STAT. RULE 809.21. Therefore, we affirm.

The no-merit report first addresses whether there would be arguable merit to a claim that Gokey's no-contest plea was not knowingly, intelligently, and voluntarily entered. The circuit court conducted a colloquy that conformed to the strictures of WIS. STAT. § 971.08 and *State v. Bangert*, 131 Wis. 2d 246, 266-72, 389 N.W.2d 12 (1986), in conjunction with Gokey's signed plea questionnaire and waiver of rights form. *See State v. Moederndorfer*, 141 Wis. 2d 823, 827-28, 416 N.W.2d 627 (Ct. App. 1987) (the court may rely on a plea questionnaire and waiver of rights form in assessing the defendant's knowledge about the rights he or she is waiving by entering a plea). There would be no arguable merit to an appellate challenge to the plea.

The no-merit report next addresses whether there would be arguable merit to a claim that the circuit court misused its sentencing discretion. The record establishes that the circuit court carefully considered and applied the primary sentencing factors to the facts of this case. *See State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76 (the court must identify the factors it considered and explain how those factors influenced its sentencing decision). The circuit court expressed compassion for the extremely difficult circumstances Gokey faced as a child, but said that the protection of the community trumped all of its other sentencing concerns.

² All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

The circuit court's decision was reasonable and based on a demonstrated rational process. *See State v. Gallion*, 2004 WI 42, ¶¶38-39, 270 Wis. 2d 535, 678 N.W.2d 197 (the court must identify the factors it considered and explain how those factors influenced its sentencing decision). Therefore, there would be no arguable merit to a claim that the circuit court misused its sentencing discretion.

Our review of the record discloses no other potential issues for appeal. Accordingly, we accept the no-merit report, affirm the conviction, and discharge appellate counsel of the obligation to represent Gokey.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Hannah Schieber Jurss is relieved from further representing Gokey in this appeal. *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