



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT I

June 4, 2018

To:

Hon. Jeffrey A. Kremers
Circuit Court Judge
Milwaukee County Courthouse
901 N. 9th St.
Milwaukee, WI 53233

John Barrett
Clerk of Circuit Court
Room 114
821 W. State Street
Milwaukee, WI 53233

Marcella De Peters
Law Office of Marcella De Peters
PMB #318
6650 W. State St.
Wauwatosa, WI 53213

Karen A. Loebel
Asst. District Attorney
821 W. State St.
Milwaukee, WI 53233

Criminal Appeals Unit
Department of Justice
P.O. Box 7857
Madison, WI 53707-7857

Monterry Sumlin 648132
Dodge Corr. Inst.
P.O. Box 700
Waupun, WI 53963-0700

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

2017AP1690-CRNM State of Wisconsin v. Monterry Sumlin (L.C. # 2016CF3157)

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

Monterry Sumlin appeals a judgment convicting him of attempted first-degree intentional homicide, with use of a dangerous weapon, as a repeater and as an incident of domestic abuse. Attorney Marcella De Peters was appointed to represent Sumlin. She filed a no-merit report

pursuant to WIS. STAT. RULE 809.32 (2015-16),¹ and *Anders v. California*, 386 U.S. 738 (1967). Sumlin received a copy of the report, 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 Sumlin's guilty 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), when read in conjunction with Sumlin's signed plea questionnaire and waiver of rights form. See *State v. Moederdorfer*, 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). There would be no arguable merit to an appellate challenge to his plea.

The no-merit report next addresses whether there would be arguable merit to a claim that the circuit court misused its sentencing discretion when it sentenced Sumlin to eighteen years of initial confinement and fifteen years of extended supervision. The record establishes that the circuit court carefully considered the general objectives of sentencing and the appropriate sentencing factors, applied the factors to the facts of this case, and reached a reasonable sentencing decision. 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 fit the

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

objectives and influenced its sentencing decision). There would be no arguable merit to a challenge to the court's 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 Sumlin further in this appeal.

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 Marcella De Peters is relieved from further representing Monterry Sumlin 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