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DISTRICT I

June 13, 2018

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

2017AP2417-CRNM State of Wisconsin v. Devonte V. Lucas (L.C. # 2014CF5679)

Before Kessler, P.J., Brennan 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).

Devonte V. Lucas appeals a judgment convicting him of three counts of armed robbery. 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). Lucas received a copy of the report and was

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

advised of his right to file a response, but he did not do so. 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 Lucas's guilty plea was not knowingly, intelligently, and voluntarily entered. The circuit court conducted a colloquy as required by WIS. STAT. § 971.08 and ***State v. Bangert***, 131 Wis. 2d 246, 266-72, 389 N.W.2d 12 (1986). The circuit court also ascertained that Lucas reviewed a plea questionnaire and waiver of rights form with his attorney and understood the information on the 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). Because the record establishes that the circuit court complied with its duty to question Lucas to ascertain that he was knowingly, intelligently, and voluntarily entering his plea, there would be no arguable merit to an appellate challenge to the plea.

The no-merit report next addresses whether there were issues extrinsic to the plea colloquy or outside of the record that would support a claim that Lucas should be granted a postconviction hearing under ***State v. Bentley***, 201 Wis. 2d 303, 548 N.W.2d 50 (1996), and ***Nelson v. State***, 54 Wis. 2d 489, 195 N.W.2d 629 (1972). We agree with the no-merit report's assessment of this issue and its conclusion that there would be no arguable merit to any potential claim.

Finally, the no-merit report addresses whether there would be arguable merit to a claim that the circuit court misused its discretion when it sentenced Lucas to fourteen years of initial

confinement and eleven years of extended supervision, which exceeded the prosecutor's recommendation, made pursuant to the plea agreement, of eight years of initial confinement and ten years of extended supervision. The record establishes that the circuit court carefully considered and applied the appropriate sentencing factors and explained at length why it decided to exceed the prosecutor's recommendation. *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). Therefore, there would be no arguable merit to a challenge to the sentence.

Our review of the record discloses no other potential issues for appeal. Accordingly, we affirm his conviction and discharge appellate counsel of the obligation to represent Lucas.

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

IT IS FURTHER ORDERED that Attorney Hans P. Koesser is relieved from further representing DeVonte V. Lucas 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