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August 31, 2018

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

2017AP1177-CRNM State of Wisconsin v. Patricia Ann Taylor (L.C. # 2015CF5168)
2017AP1178-CRNM State of Wisconsin v. Patricia Ann Taylor (L.C. # 2016CF1935)

Before Lundsten, P.J., Sherman and Blanchard, 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).

Patricia Taylor appeals related judgments convicting her of one count of intimidating a victim and one count of intimidating a witness. Attorney Claire Zyber has filed a no-merit report

seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2015-16);[1] ***Anders v. California***, 386 U.S. 738, 744 (1967). The no-merit report addresses the assistance of trial counsel, whether the pleas were knowing and voluntary, and whether the sentences were unduly harsh. Taylor was sent a copy of the report, but has not filed a response.

By prior order, we placed this case on hold to await an opinion determining whether a defendant who was not advised at the time of the plea that he or she faced multiple mandatory DNA surcharges has grounds for plea withdrawal. This court has now issued a published decision concluding that recent decisions by the Wisconsin Supreme Court defeat any such claim. *See* ***State v. Freiboth***, 2018 WI App 46, __ Wis. 2d __, __ N.W.2d __.

Upon reviewing the entire record, as well as the no-merit report, we conclude that there are no arguably meritorious appellate issues.

First, we see no arguable basis for plea withdrawal. The circuit court conducted a plea colloquy, inquiring into Taylor's ability to understand the proceedings and the voluntariness of her pleas, and further exploring her understanding of the nature of the charges, the penalty ranges and other direct consequences of the pleas, and the constitutional rights being waived. In addition, Taylor provided the court with signed plea questionnaires for each case. The facts set forth in the complaints—namely, that several of Taylor's children told authorities that Taylor had threatened them not to tell about beatings they had received, and that jail authorities recorded a conversation in which Taylor attempted to persuade one of the children to influence another of the children to recant reported child abuse—provided a sufficient factual basis for the pleas. In

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

conjunction with the plea questionnaire and complaint, the colloquy was sufficient to satisfy the court's obligations under WIS. STAT. § 971.08. *See* ***State v. Hoppe***, 2009 WI 41, ¶18, 317 Wis. 2d 161, 765 N.W.2d 794; ***State v. Moederndorfer***, 141 Wis. 2d 823, 827-28, 416 N.W.2d 627 (Ct. App. 1987). We further note that there is nothing in the record to suggest that trial counsel's performance was in any way deficient leading up to the pleas, and Taylor has not alleged any other facts that would give rise to a manifest injustice.

A challenge to Taylor's sentences would also lack arguable merit. The record shows that the circuit court considered relevant sentencing factors and rationally explained their application to this case, emphasizing that Taylor's children were consistently telling authorities that they were tortured by Taylor, and that their injuries were consistent with their accounts. *See generally* ***State v. Gallion***, 2004 WI 42, ¶¶39-46, 270 Wis. 2d 535, 678 N.W.2d 197. The court then sentenced Taylor to one year of initial confinement and one year of extended supervision on each of the two counts, to be served consecutively.

The sentences imposed did not exceed the maximum available penalties. *See* WIS. STAT. §§ 940.45(3) (classifying intimidation of a victim by threat of force as a Class G felony); 940.43(7) (classifying intimidation of a witness in a felony case as a Class G felony); and 973.01(2)(b)7. and (d)4. (providing maximum terms of five years of initial confinement and five years of extended supervision for a Class G felony) (all 2013-14). Nor were the sentences unduly harsh, particularly taking into account the number of additional felonies that were dismissed and read in as part of the plea deal. *See generally* ***State v. Grindemann***, 2002 WI App 106, ¶¶31-32, 255 Wis. 2d 632, 648 N.W.2d 507.

Upon an independent review of the record, we have found no other arguable basis for reversing the judgments of conviction. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of ***Anders*** and WIS. STAT. RULE 809.32.

Accordingly,

IT IS ORDERED that the judgments of conviction are summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Claire Zyber is relieved of any further representation of Patricia Taylor in this matter pursuant to 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