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DISTRICT IV/II

September 12, 2018

To:

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

2017AP2231-CRNM	State of Wisconsin v. Craig D. Denson (L.C. # 2012CF1487)
2017AP2232-CRNM	State of Wisconsin v. Craig D. Denson (L.C. # 2013CF357)
2017AP2233-CRNM	State of Wisconsin v. Craig D. Denson (L.C. # 2015CF84)

Before Reilly, P.J., Gundrum and Hagedorn, 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).

In these consolidated appeals, Craig Denson appeals from judgments sentencing him after revocation of his terms of probation for two counts of obstructing (as a repeat offender), two counts of felony bail jumping and one count of possession of tetrahydrocannabinols (2nd or subsequent offense). Denson's 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). Denson received a copy of the report and was advised of his right to file a response. He has not done so. Upon consideration of the report and an independent review of the record as mandated by *Anders* and RULE 809.32, we summarily affirm the judgments because there are no issues that would have arguable merit for appeal. WIS. STAT. RULE 809.21.

The no-merit report addresses whether the circuit court misused its discretion in imposing various consecutive, concurrent and enhanced sentences after revocation of Denson’s probation in the three cases before this court on appeal.

We conclude that there would be no arguable merit to a challenge to Denson’s sentences. The discretion of the sentencing judge must be exercised on a “rational and explainable basis.” *State v. Gallion*, 2004 WI 42, ¶76, 270 Wis. 2d 535, 678 N.W.2d 197 (citation omitted). The circuit court’s duty at sentencing after probation revocation is the same as its duty at the original sentencing. *State v. Wegner*, 2000 WI App 231, ¶7 n.1, 239 Wis. 2d 96, 619 N.W.2d 289. When, as here, the same judge presided over the original sentencing and the sentencing after revocation, the judge does not need to restate the reasons supporting the original sentencing. *Id.*, ¶9. We “consider the original sentencing reasons to be implicitly adopted.” *Id.* In fashioning the sentences after revocation, the court considered the current offenses, Denson’s character and history of other offenses, his status as a repeat offender, and the need to protect the public. *See State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. The weight to be given the various factors was within the circuit court’s discretion. *See State v. Stenzel*, 2004 WI

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

App 181, ¶16, 276 Wis. 2d 224, 688 N.W.2d 20. The circuit court also granted sentence credit. We conclude that the circuit court properly exercised its discretion at sentencing. There would be no arguable merit to a challenge to the sentences.

Our independent review of the record does not disclose any potentially meritorious issue for appeal. Because we conclude that there would be no arguable merit to any issue that could be raised on appeal, we accept the no-merit report, affirm the judgments and relieve Attorney Michael Herbert of further representation of Craig Denson in these matters.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Michael Herbert is relieved of further representation of Craig Denson in these matters.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Sheila T. Reiff
Clerk of Court of Appeals