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DISTRICT I

September 10, 2018

To:

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

2018AP477-CRNM State of Wisconsin v. Maurice Stephen Snyder, Jr.
(L.C. # 2015CF2503)

Before Brennan, 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).

Maurice Stephen Snyder, Jr., appeals a judgment convicting him of one count of second-degree reckless homicide and four counts of physical abuse of a child, intentionally causing bodily harm. Attorney Pamela Moorshead was appointed to represent Snyder for postconviction and appellate proceedings. 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). Snyder 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 Snyder did not knowingly, intelligently, and voluntarily enter his pleas. Snyder pled guilty to one count of child abuse, and he pled no contest to the remaining charges, explaining that he did not remember committing the other charges because he was under the influence of drugs, but he conceded that there was sufficient evidence to convict him. The circuit court conducted a very thorough colloquy with Snyder that complied with WIS. STAT. § 971.08, and *State v. Bangert*, 131 Wis. 2d 246, 266-72, 389 N.W.2d 12 (1986). In addition, Snyder discussed information pertinent to entering pleas with his counsel prior to the plea hearing, reviewed a plea questionnaire and waiver of rights form with his counsel, and signed it. *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). There would be no arguable merit to an appellate challenge to the pleas.

The no-merit report next addresses whether there was a factual basis for Snyder’s pleas. Before accepting a defendant’s plea, the circuit court must ascertain “whether a factual basis

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

exists to support the plea.” *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594 716 N.W.2d 906. The facts alleged in the complaint, which were discussed in more detail during the plea hearing, provided a sufficient factual basis for the convictions. There would be no arguable merit to a claim that there was an insufficient factual basis for Snyder’s pleas.

The no-merit report next addresses whether the circuit court erred in denying Snyder’s presentence motion to withdraw his pleas. A defendant must show that a fair and just reason exists by a preponderance of the evidence to be allowed to withdraw his or her plea before sentencing. *State v. Lopez*, 2014 WI 11, ¶2, 353 Wis. 2d 1, 843 N.W.2d 390. We will affirm the circuit court’s decision denying a motion for plea withdraw unless the circuit court erroneously exercises its discretion. *Id.*, ¶60.

Snyder sought to withdraw his pleas on the ground that the mother of the three-year-old victim had a more serious problem with heroin than Snyder realized, so she would not have been a credible witness against him.² The circuit court properly concluded that Snyder did not have a fair and just reason to withdraw his pleas because he was aware that the mother was a heroin addict when he entered the plea agreement and the mother’s credibility issues were part of the equation when the plea agreement was reached, which dismissed nine of the charges against him. There would be no arguable merit to a claim that the circuit court erroneously exercised its discretion in denying Snyder’s motion to withdraw his pleas.

² The mother of the victim died of a heroin overdose before the motion to withdraw was filed, although Snyder was apparently unaware of her death when he decided to bring the motion.

Finally, the no-merit report addresses whether there would be arguable merit to a claim that the circuit court misused its sentencing discretion when it sentenced Snyder to twenty-four years of initial incarceration and nineteen years of extended supervision. The record establishes that the circuit court considered the general objectives of sentencing, identified the factors applicable to this case, including the three primary sentencing factors, and addressed them at length in its sentencing decision, reaching a reasonable result. *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 objectives and influenced its sentencing decision). 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 accept the no-merit report, affirm the conviction and discharge appellate counsel of the obligation to represent Snyder 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 Pamela Moorshead is relieved from further representing Maurice Stephen Snyder, Jr., 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