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**DISTRICT II**

September 19, 2018

To:

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

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2017AP1277-CRNM      State of Wisconsin v. Juwan Tyrae Matthews (L.C. #2013CF294)

Before Neubauer, C.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).**

Juwan Tyrae Matthews appeals from a judgment convicting him of second-degree reckless homicide as a party to a crime. Matthews' appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2015-16)<sup>1</sup> and *Anders v. California*, 386 U.S. 738 (1967). Matthews filed a response. After reviewing the record, counsel's report, and Matthews'

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2015-16 version.

response, we conclude that there are no issues with arguable merit for appeal. Therefore, we summarily affirm the judgment. WIS. STAT. RULE 809.21.

Matthews was convicted following a guilty plea to second-degree reckless homicide as a party to a crime. The charge stemmed from his action of firing a gun at a crowd of people and killing a man. Several additional charges were dismissed and read in.<sup>2</sup> The circuit court imposed a sentence of fifteen years of initial confinement and ten years of extended supervision, consecutive to any other sentence Matthews was serving. This no-merit appeal follows.

The no-merit report addresses whether Matthews' guilty plea was knowingly, voluntarily, and intelligently entered. The record shows that the circuit court engaged in a colloquy with Matthews that satisfied the applicable requirements of WIS. STAT. § 971.08(1) and *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906. In addition, a signed plea questionnaire and waiver of rights form was entered into the record, along with the relevant jury instruction detailing the elements of the offense. We agree with counsel that a challenge to the entry of Matthews' guilty plea would lack arguable merit.

The no-merit report also addresses whether the circuit court properly exercised its discretion at sentencing. The record reveals that the court's sentencing decision had a "rational and explainable basis." *State v. Gallion*, 2004 WI 42, ¶76, 270 Wis. 2d 535, 678 N.W.2d 197 (citation omitted). In making its decision, the court considered the seriousness of the offense, Matthews' character, and the need to protect the public. *State v. Ziegler*, 2006 WI App 49, ¶23,

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<sup>2</sup> The additional charges were three counts of attempted first-degree intentional homicide and one count of first-degree intentional homicide, all as a party to a crime, as a repeater, and with use of a dangerous weapon.

289 Wis. 2d 594, 712 N.W.2d 76. Under the circumstances of the case, which were aggravated by Matthews' criminal history and read-in offenses, the sentence imposed does not "shock public sentiment and violate the judgment of reasonable people concerning what is right and proper." *Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). We agree with counsel that a challenge to Matthews' sentence would lack arguable merit.

Finally, the no-merit report addresses the sole issue that Matthews raises in his response, i.e., whether he is entitled to any sentence credit for time spent in custody before sentencing. At the time he was charged, Matthews was in prison serving a federal sentence for unrelated drug charges. He was transferred to the Racine County Jail where he remained for pretrial proceedings and sentencing. He was then transferred back to the prison to serve the remainder of his federal sentence. We conclude that Matthews' federal sentence severed the connection between his custody and charges in the present case. See *State v. Beets*, 124 Wis. 2d 372, 383, 369 N.W.2d 382 (1985). He is not entitled to credit for service of sentence on a separate crime. *State v. Carter*, 2010 WI 77, ¶13 n.7, 327 Wis. 2d 1, 785 N.W.2d 516. We agree with counsel that a request for sentence credit would lack arguable merit.

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 and relieve Attorney Carl W. Chesshir of further representation in this matter.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Carl W. Chesshir is relieved of further representation of Matthews in this matter.

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

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*Sheila T. Reiff*  
*Clerk of Court of Appeals*