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October 30, 2018

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

2017AP2034-CRNM State of Wisconsin v. Matthew James Bohringer
(L.C. # 2015CF2270)

Before Kessler, P.J., Brennan 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).

Matthew James Bohringer appeals from a judgment convicting him of two counts of robbery of a financial institution. *See* WIS. STAT. § 943.87 (2015-16).¹ Appointed appellate counsel, Thomas J. Erickson, filed a no-merit report pursuant to *Anders v. California*, 386 U.S.

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

738, 744 (1967), and WIS. STAT. RULE 809.32. Bohringer was advised of his right to file a response, but he has not done so. After independently reviewing the record and the no-merit report, we conclude there are no issues of arguable merit that could be raised on appeal and summarily affirm the judgment of conviction. *See* WIS. STAT. RULE 809.21.

Background

Bohringer was charged with three counts of robbery of a financial institution. According to the complaint, which served as the factual basis for Bohringer's pleas, on three separate days in May 2015, Bohringer entered Milwaukee-area banks, approached the teller windows, and placed notes on the counter to the general effect of "give me all your money and no one will get hurt." In all three robberies, the tellers gave Bohringer cash. The police used high quality video surveillance to connect Bohringer to the crimes.

Bohringer ultimately pled guilty to two counts of robbery of a financial institution. The State moved to dismiss and read in the remaining count. The circuit court accepted his pleas and imposed three years and six months of initial confinement and six years of extended supervision on each count. The sentences were ordered to run consecutively.

In his no-merit report, appellate counsel opines that there are no issues of arguable merit for Bohringer to pursue on appeal. We agree and address the following: (A) the validity of Bohringer's pleas; and (B) the circuit court's exercise of its sentencing discretion.

Discussion

(A) *Guilty Pleas*

Pursuant to the plea negotiations, the State moved to dismiss and read in one of the counts of robbery of a financial institution that Bohringer faced. The State additionally agreed to recommend to the circuit court that it sentence Bohringer to a global sentence of seven to nine years of initial confinement and four years of extended supervision. The State also made clear that it would seek restitution for the victims. In exchange, Bohringer agreed to plead guilty to two counts of robbery of a financial institution. The terms of the agreement left him free to argue as to the length of his sentence. At the plea hearing, Bohringer confirmed for the circuit court that he understood the plea negotiations.

To be valid, a guilty plea must be knowing, intelligent, and voluntary. *See State v. Bangert*, 131 Wis. 2d 246, 260, 389 N.W.2d 12 (1986). Bohringer completed a plea questionnaire and waiver of rights form and an addendum, *see State v. Moederndorfer*, 141 Wis. 2d 823, 827-28, 416 N.W.2d 627 (Ct. App. 1987). The relevant jury instruction was attached to the form.² The form listed, and the court explained, the maximum penalties Bohringer faced.

² At the plea hearing, Bohringer's trial counsel explained to the circuit court that there is not a pattern jury instruction for robbery of a financial institution. *See* WIS JI—CRIMINAL 1508 (explaining that there is not a standard instruction for the crime of robbery of a financial institution but that the general instruction for robbery by the use or threat of force, WIS JI—CRIMINAL 1479, is one counterpart that can be looked to for guidance). As a result, trial counsel submitted WIS JI—CRIMINAL 1479, but advised the circuit court that he discussed with Bohringer how the robbery at issue related to a financial institution. At this point in the proceedings, the circuit court asked Bohringer if he had any questions, and Bohringer stated that he did not.

The form, along with the addendum, further specified the constitutional rights that Bohringer was waiving with his pleas. See *Bangert*, 131 Wis. 2d at 270-72. The circuit court also conducted a plea colloquy, as required by Wis. STAT. § 971.08, *Bangert*, and *State v. Hampton*, 2004 WI 107, ¶38, 274 Wis. 2d 379, 683 N.W.2d 14. Therefore, there would be no arguable merit to challenging the validity of Bohringer's guilty pleas.

(B) Sentencing

We also conclude that there would be no arguable basis to assert that the circuit court erroneously exercised its sentencing discretion, see *State v. Gallion*, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197, or that the sentences were excessive, see *Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975).

At sentencing, the circuit court must consider the principal objectives of sentencing, including the protection of the community, the punishment and rehabilitation of the defendant, and deterrence to others, *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76, and it must determine which objective or objectives are of greatest importance, *Gallion*, 270 Wis. 2d 535, ¶41. In seeking to fulfill the sentencing objectives, the circuit court should consider a variety of factors, including the gravity of the offense, the character of the offender, and the protection of the public. *State v. Odom*, 2006 WI App 145, ¶7, 294 Wis. 2d 844, 720 N.W.2d 695. The weight to be given to each factor is committed to the circuit court's discretion. See *Gallion*, 270 Wis. 2d 535, ¶41.

After listening to the attorneys' and Bohringer's statements, the circuit court applied the standard sentencing factors and explained their application in accordance with the framework set forth in *Gallion* and its progeny. The circuit court noted the impact that Bohringer's crimes had

on the people working at the banks he robbed and accounted for Bohringer's drug addiction. The circuit court noted, however, that Bohringer's criminal history, which worsened as the years went by, was that of someone who "decided that the drugs are so much more of a priority in your life than your children and your work [and] your family. It has overtaken everything."

In terms of the severity of the sentence, Bohringer faced a total of fifty years of initial confinement and thirty years of extended supervision on the charges to which he pled. *See* WIS. STAT. §§ 943.87, 939.50(3)(c), 973.01(2)(b)3., (2)(d)2. The circuit court sentenced him to a total of seven years of initial confinement and twelve years of extended supervision. This sentence does not shock the public's sentiment. *See State v. Scaccio*, 2000 WI App 265, ¶18, 240 Wis. 2d 95, 622 N.W.2d 449.

Our review of the record discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit report, affirms the convictions, and discharges appellate counsel of the obligation to represent Bohringer further in this appeal.

Upon the foregoing, therefore,

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

IT IS FURTHER ORDERED that Attorney Erickson is relieved of further representation of Bohringer in this matter. *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