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DISTRICT I

January 2, 2019

To:

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

2018AP1057-CRNM State of Wisconsin v. Christopher James Hampton
(L.C. # 2017CF383)

Before Kessler, P.J., 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).

Christopher James Hampton appeals from a judgment of conviction, entered upon his guilty pleas, on two counts of armed robbery as a party to a crime. Appellate counsel, Thomas J. Erickson, has filed a no-merit report, pursuant to *Anders v. California*, 386 U.S. 738 (1967), and

WIS. STAT. RULE 809.32 (2015-16).¹ Hampton was advised of his right to file a response, but he has not responded. Upon this court's independent review of the record, as mandated by *Anders*, and counsel's report, we conclude there are no issues of arguable merit that could be pursued on appeal. We therefore summarily affirm the judgment.

The criminal complaint charged Hampton with two counts of armed robbery as a party to a crime. It alleged that on January 17, 2017, a white male wearing a ski mask came into a gas station and demanded money from the register. The clerk, J.P., believed the man had a gun because he kept his hand in his pocket the entire time. J.P. gave the entire till, containing more than \$496, to the man. On January 18, 2017, E.S. reported that shortly after using an ATM at a 7-Eleven store to check her bank balance, she was stopped by a white male wearing a ski mask who demanded all her money. Like J.P., E.S. believed the man had a gun because he kept his hand in his pocket. E.S. surrendered her wallet but refused to give up her phone. The man ran away to a gray SUV or truck. The complaint also listed five other robberies as read-in offenses.

Police had surveillance videos for many of the offenses. The videos all showed a gray Ford F-150 truck. Police released images from the incidents and requested the public's help in identifying the culprits. Hampton was identified from the images by his sister. J.P. was then able to identify Hampton in a photo array. Hampton admitted the truck was his, but said he used so much heroin that he could not recall whether he had committed the robberies. He also told police that he had been driving around with a friend, Enoch Arteaga, who was charged in the same complaint as Hampton.

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

Hampton agreed to plead guilty to the charged offenses and to have the five read-in offenses listed in the complaint considered in this case. In exchange, the State agreed to limit its sentencing recommendation to requesting prison, without specifying a term length. The circuit court accepted Hampton's guilty pleas and sentenced him to seven years of initial confinement and five years of extended supervision on each count, to be served concurrently. Hampton appeals.

Counsel addresses two potential issues in the no-merit report. The first is whether Hampton's pleas were knowing, intelligent, and voluntary. Our review of the record—including the plea questionnaire and waiver of rights form and plea hearing transcript—confirms that the circuit court complied with its obligations for taking a guilty plea.² See WIS. STAT. § 971.08; *State v. Bangert*, 131 Wis. 2d 246, 261-62, 389 N.W.2d 12 (1986); *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906. There is no arguable merit to a claim that the circuit court failed to fulfill its obligations for taking a plea or that Hampton's pleas were anything other than knowing, intelligent, and voluntary.

The second issue counsel discusses is whether 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. At sentencing, a court must consider the principal objectives of sentencing, including the protection of the community, the punishment and rehabilitation of the defendant, and deterrence

² The circuit court had also, as recommended but not required, explained to Hampton that it would be able to consider the read-in offenses at sentencing, but that Hampton would not have convictions for those offenses and could not be charged with them in the future. See *State v. Strazkowski*, 2008 WI 65, ¶97, 310 Wis. 2d 259, 750 N.W.2d 835. The circuit court did not, however, explain that it could order restitution on those offenses. See *id.* While the circuit court did later impose restitution relating to the read-in offenses, there is no arguable merit to a challenge to the pleas, because Hampton stipulated to the requested restitution amounts.

to others, *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76, and determine which objective or objectives are of greatest importance, *see Gallion*, 270 Wis. 2d 535, ¶41. In seeking to fulfill the sentencing objectives, the court should consider primary factors including the gravity of the offense, the character of the offender, and the protection of the public, and may consider several additional factors. *See 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 id.*

Our review of the record confirms that the court appropriately considered relevant sentencing objectives and factors, including an explanation for why it was rejecting probation. The concurrent sentences totaling twelve years' imprisonment are well within the eighty-year range authorized by law, *see State v. Scaccio*, 2000 WI App 265, ¶18, 240 Wis. 2d 95, 622 N.W.2d 449, and are not so excessive so as to shock the public's sentiment. *See Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). There would be no arguable merit to a challenge to the court's sentencing discretion.

Our independent review of the record reveals no other potential issues of arguable merit.³

Upon the foregoing, therefore,

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

³ We observe that, prior to the preliminary hearing, Hampton moved to dismiss the complaint for lack of probable cause, asserting that the facts in the complaint were insufficient with respect to the "armed" element of the charges. Our review of the record satisfies us that the circuit court properly rejected the motion—among other things, the preliminary hearing clearly established probable cause that some felony had been committed—so there is no arguable merit to any claim that trial or postconviction counsel should have pursued the matter further.

IT IS FURTHER ORDERED that Attorney Thomas J. Erickson is relieved of further representation of Hampton 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