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DISTRICT I

January 24, 2019

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

2018AP741-CRNM State of Wisconsin v. Kaland D. Jackson (L.C. # 2016CF001701)

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).

Kaland D. Jackson appeals from a judgment of conviction for one count of first-degree reckless homicide (delivering drugs), contrary to WIS. STAT. § 940.02(2)(a) (2015-16).¹

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

Jackson's appellate counsel, Jorge R. Fragoso, has filed a no-merit report pursuant to *Anders v. California*, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32. Jackson has not filed a response. We have independently reviewed the record and the no-merit report as mandated by *Anders*. We conclude that there is no issue of arguable merit that could be pursued on appeal. We, therefore, summarily affirm.

The amended information included five felonies: two counts of delivering a controlled substance, two counts of felony bail jumping, and one count of first-degree reckless homicide for delivering drugs to a man who later overdosed. Jackson entered a plea agreement with the State pursuant to which he agreed to plead guilty to first-degree reckless homicide and the other four felonies were dismissed and read in. In exchange, the State agreed to recommend a sentence of ten years of initial confinement and five years of extended supervision. The trial court conducted a plea colloquy with Jackson, accepted his guilty plea, and found him guilty. The trial court later followed the State's recommendation, imposing ten years of initial confinement and five years of extended supervision, to be served consecutive to a sentence Jackson was already serving. This appeal follows.

The no-merit report addresses two issues: (1) whether Jackson could seek plea withdrawal on grounds that "his plea was not knowingly, intelligently, and voluntarily entered, or because a factual basis was lacking"; and (2) whether the trial court erroneously exercised its sentencing discretion. The no-merit report thoroughly addresses each of those issues, providing citations to the record and relevant authority. For example, with respect to Jackson's plea, the no-merit report analyzes the trial court's compliance with WIS. STAT. § 971.08 and *State v. Bangert*, 131 Wis. 2d 246, 260-272, 389 N.W.2d 12 (1986), discussing issues such as the trial court's explanation of the elements of the crime and the fact that Jackson was giving up certain constitutional rights. With respect to the factual basis for the plea, the no-merit report identifies

the four elements of the crime and explains how the facts outlined in the complaint, combined with facts offered by the State at the plea hearing, provided an adequate basis for Jackson's guilty plea.

The no-merit report also addresses the sentence imposed, providing citations to the sentencing transcript and analyzing the trial court's compliance with *State v. Gallion*, 2004 WI 42, ¶¶40-46, 270 Wis. 2d 535, 678 N.W.2d 197. Finally, the no-merit report concludes there would be no arguable merit to asserting that Jackson's sentence was unduly harsh and excessive, given that Jackson could have been sentenced to forty years of imprisonment. See *State v. Scaccio*, 2000 WI App 265, ¶18, 240 Wis. 2d 95, 622 N.W.2d 449 ("A sentence well within the limits of the maximum sentence is unlikely to be unduly harsh or unconscionable.").

This court is satisfied that the no-merit report properly analyzes the issues it raises, and based on our independent review of the record, we agree with counsel's assessment that none of those issues presents an issue of arguable merit.

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

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Jorge R. Frago is relieved from further representing Kaland D. Jackson 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