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DISTRICT IV

February 13, 2019

To:

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

2018AP639-CRNM	State of Wisconsin v. Shannon B. Erickson (L.C. # 2016CF135)
2018AP840-CRNM	State of Wisconsin v. Shannon B. Erickson (L.C. # 2016CF120)

Before Lundsten, P.J., Sherman and Fitzpatrick, 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).

Attorney Patricia Sommer, appointed counsel for Shannon B. Erickson, has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2017-18)¹ and *Anders v. California*, 386 U.S. 738, 744 (1967). The no-merit report addresses whether there

¹ All references to the Wisconsin Statutes are to the 2017-18 version unless otherwise noted.

would be arguable merit to a challenge to Erickson's plea or sentencing. Erickson was sent a copy of the report but has not filed a response. Upon independently reviewing the entire record, as well as the no-merit report, we agree with counsel that there are no issues of arguable merit. We affirm.

In October 2016, Erickson was charged with second-degree recklessly endangering safety, misdemeanor battery, and disorderly conduct, all as domestic abuse. In November 2016, Erickson was charged with substantial battery, strangulation, false imprisonment, felony bail jumping, criminal damage to property, and disorderly conduct. Pursuant to a plea agreement, Erickson pled guilty to misdemeanor battery and substantial battery, and the remaining counts were dismissed and read in for sentencing purposes. The court sentenced Erickson to a total of eighteen months initial confinement and eighteen months of extended supervision.

The no-merit report addresses whether there would be arguable merit to a challenge to Erickson's plea. A post-sentencing motion for plea withdrawal must establish that plea withdrawal is necessary to correct a manifest injustice, such as ineffective assistance of counsel, a plea that was not knowing, intelligent, and voluntary, or lack of a factual basis to support the plea. *State v. Krieger*, 163 Wis. 2d 241, 250-51 & n.6, 471 N.W.2d 599 (Ct. App. 1991). Here, the circuit court conducted a plea colloquy that, together with the plea questionnaire that Erickson signed, satisfied the court's mandatory duties to personally address Erickson and determine information such as Erickson's understanding of the nature of the charges and the range of punishments he faced, the constitutional rights he waived by entering a plea, and the direct consequences of the plea. See *State v. Hoppe*, 2009 WI 41, ¶¶18, 30, 317 Wis. 2d 161, 765 N.W.2d 794. The criminal complaints provided a factual basis for the plea. There is no indication

of any other basis for plea withdrawal. Accordingly, we agree with counsel's assessment that a challenge to Erickson's plea would lack arguable merit.

Next, the no-merit report addresses whether there would be arguable merit to a challenge to Erickson's sentence. We agree with counsel that this issue lacks arguable merit. Our review of a sentence determination begins "with the presumption that the trial court acted reasonably, and the defendant must show some unreasonable or unjustifiable basis in the record for the sentence complained of." *State v. Krueger*, 119 Wis. 2d 327, 336, 351 N.W.2d 738 (Ct. App. 1984). Here, the court explained that it considered facts pertinent to the standard sentencing factors and objectives, including the seriousness of the offenses, Erickson's character and criminal history, and the need to protect the public. *See State v. Gallion*, 2004 WI 42, ¶¶39-46 & n.11, 270 Wis. 2d 535, 678 N.W.2d 197. We discern no basis to challenge the sentence imposed by the circuit court.

Upon our independent review of the record, we have found no other arguable basis for reversing the judgments of conviction. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

IT IS ORDERED that the judgments are summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Patricia Sommer is relieved of any further representation of Shannon B. Erickson 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