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DISTRICT IV

April 8, 2019

To:

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

2019AP4-CRNM State of Wisconsin v. Kong Vang (L.C. # 2017CF950)

Before Lundsten, P.J., Kloppenburg 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 Lane Fitzgerald, appointed counsel for Kong Vang, has filed a no-merit report seeking to withdraw as appellate counsel pursuant to WIS. STAT. RULE 809.32 (2017-18)¹ and *Anders v. California*, 386 U.S. 738 (1967). Vang was sent a copy of the report but has not filed

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

a response. Upon consideration of the report and an independent review of the record, we conclude that there is no arguable merit to any issue that could be raised on appeal.

Vang was charged with ten crimes relating to an incident in which Vang struck and killed a pedestrian and injured at least one other pedestrian. The parties entered into a plea agreement under which Vang agreed to plead guilty or no contest to three charges: (1) homicide by intoxicated use of a vehicle while having a prior intoxicant-related offense, (2) second-degree recklessly endangering safety, and (3) possession of methamphetamine. The State agreed that the seven remaining charges would be dismissed and read in. The circuit court accepted Vang's pleas and dismissed the remaining charges. The court imposed concurrent sentences for an effective total sentence of fifteen years of imprisonment, consisting of ten years of initial confinement and five years of extended supervision.

The no-merit report addresses whether Vang's pleas were knowing and voluntary. We agree with counsel that there is no arguable merit to this issue. The plea colloquy sufficiently complied with the requirements of WIS. STAT. § 971.08 and *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906, relating to the nature of the charges, the rights Vang was waiving, and other matters. The record shows no other arguable basis for plea withdrawal.

The no-merit report addresses whether the circuit court erroneously exercised its sentencing discretion. We agree with counsel that there is no arguable merit to this issue. The total sentence was within the maximum allowed, and the circuit court discussed the required sentencing factors along with other relevant factors. *See State v. Gallion*, 2004 WI 42, ¶¶37-49, 270 Wis. 2d 535, 678 N.W.2d 197.

Our review of the record discloses no other potential issues for appeal.

Therefore,

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

IT IS FURTHER ORDERED that Attorney Lane Fitzgerald is relieved of any further representation of Kong Vang 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