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DISTRICT I

June 17, 2019

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

2018AP2375-CRNM State of Wisconsin v. Kristopher Davon Watson
(L.C. # 2017CF3917)

Before Brash, P.J., Kessler 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).

Kristopher Davon Watson appeals a judgment convicting him of multiple drug crimes. Attorney Angela Kachelski 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). Watson was advised of his right to respond, but he has not done so. After considering the no-merit report and conducting an independent review of the record, we conclude that there are no issues of arguable merit that Watson could raise on appeal. Therefore, we affirm. See WIS. STAT. RULE 809.21.

Watson pled guilty to four crimes: (1) delivery of heroin, three to ten grams, as a second or subsequent offense; (2) maintaining a drug trafficking place, as a second or subsequent offense; (3) possession with intent to deliver narcotics, fentanyl, party to a crime, as a second or subsequent offense; and (4) maintaining a drug trafficking place, party to a crime, as a second or subsequent offense. A fifth charge, obstructing an officer, was dismissed and read in for sentencing. The circuit court sentenced Watson to an aggregate term of nine years of initial confinement and nine years of extended supervision, to be served consecutively to other sentences Watson was already serving.

The no-merit report addresses whether Watson's guilty pleas were knowingly, intelligently, and voluntarily entered. In order to ensure that a defendant is knowingly, intelligently, and voluntarily waiving the right to trial by entering a guilty plea, the circuit court must conduct a colloquy with the defendant to ascertain whether the defendant understands the elements of the crimes to which he is pleading guilty, the constitutional rights he is waiving by entering the plea, and the maximum potential penalties that could be imposed. See WIS. STAT. § 971.08, and *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906. A plea

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

questionnaire and waiver of rights form that the defendant has acknowledged reviewing and understanding may reduce “the extent and degree of the colloquy otherwise required between the trial court and the defendant.” *State v. Hoppe*, 2009 WI 41, ¶42, 317 Wis. 2d 161, 765 N.W.2d 794 (citation omitted). Based on the circuit court’s thorough plea colloquy with Watson and Watson’s review of the plea questionnaire and waiver of rights form, there would be no arguable merit to an appellate challenge to the plea.

The no-merit report further addresses whether there would be arguable merit to a claim that the circuit court misused its discretion when it sentenced Watson. The circuit court considered the aggravating and mitigating circumstances of the case. Forty-four grams of fentanyl were recovered when Watson was apprehended, which Watson incorrectly believed to be heroin. The circuit court said that Watson’s actions put himself and others at serious risk because fentanyl is an extremely dangerous substance and there have been a substantial number of deaths in the community from both fentanyl and heroin. The circuit court considered appropriate factors in deciding the length of sentence to impose and explained its decision in accordance with the framework set forth in *State v. Gallion*, 2004 WI 42, ¶¶39-46, 270 Wis. 2d 535, 678 N.W.2d 197. Therefore, there would be no arguable merit to an appellate challenge to his sentence.

Our independent review of the record also reveals no arguable basis for reversing the judgment of conviction. Therefore, we affirm the judgment.

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

IT IS FURTHER ORDERED that Attorney Angela Kachelski is relieved of any further representation of Kristopher Davon Watson 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