



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688
Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT I/II

June 26, 2019

To:

Hon. Dennis R. Cimpl
Circuit Court Judge
Safety Building, Rm. 316
821 W. State Street - Branch 19
Milwaukee, WI 53233

John Barrett
Clerk of Circuit Court
821 W. State Street
Room 114
Milwaukee, WI 53233

Karen A. Loebel
Deputy District Attorney
821 W. State Street
Milwaukee, WI 53233

John T. Wasielewski
Wasielewski & Erickson
1429 N. Prospect Avenue, Ste. 211
Milwaukee, WI 53202

Criminal Appeals Unit
Department of Justice
P.O. Box 7857
Madison, WI 53707-7857

Daquon J. Youngblood, 599916
Fox Lake Correctional Inst.
P.O. Box 200
Fox Lake, WI 53933-0200

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

2018AP1403-CRNM State of Wisconsin v. Daquon J. Youngblood (L.C. #2015CF4588)

Before Neubauer, C.J., Gundrum and Hagedorn, 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).

Daquon J. Youngblood appeals from a judgment of conviction for two counts of being a party to the crime of armed robbery and from an order denying postconviction relief. His

appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2017-18)¹ and *Anders v. California*, 386 U.S. 738 (1967). Youngblood received a copy of the report, was advised of his right to file a response, and has elected not to do so. Upon consideration of the report and an independent review of the record, the judgment and order are summarily affirmed because there is no arguable merit to any issue that could be raised on appeal. *See* WIS. STAT. RULE 809.21.

Youngblood was one of four individuals who stole a car from a woman by threatening her with a gun as she stepped outside of her car at a Walmart shortly after midnight. The woman identified Youngblood as the individual who stood behind the man holding the gun on her and testified that Youngblood told her to give up her keys “or else.” A couple of days later, the same group of individuals, including Youngblood, were driving around in the stolen car when they came upon a teenage boy at a bus stop. At gunpoint, they made the boy get in the car. After driving a bit, they stopped in an alley and at gunpoint, the boy was robbed of a couple of dollars, his cell phone, Louis Vuitton belt, Rock Revival jeans, and Nike shoes. When the stolen car was recovered hours later after a high-speed chase and crash, Youngblood was wearing the boy’s jeans. Youngblood was eighteen years old when the crimes were committed.

On the first trial date, the prosecution sought an adjournment because it had not been able to locate the victim witnesses. Because the trial court granted the adjournment, Youngblood was released on a personal recognizance bond. About a month later, Youngblood suffered a traumatic brain injury as a result of a car accident. Youngblood had been a passenger in a stolen

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

car that crashed into another car after speeding through a red light. A competency evaluation was conducted to assure that Youngblood was competent to stand trial. The evaluation concluded that Youngblood was competent. Youngblood did not challenge that conclusion.

Youngblood was found guilty by a jury. He was sentenced to consecutive terms totaling ten years' initial confinement and six years' extended supervision. He filed a postconviction motion seeking reconsideration of the sentencing court's determination that he not be eligible for early release programs. In denying that motion, the court explained that eligibility for those programs was inappropriate given the violent nature of Youngblood's crimes and the court's desire that he serve the entire ten-year period of initial confinement in the interests of punishment, deterrence, and community protection.²

The no-merit report addresses the potential issues of whether Youngblood properly waived his right to a competency hearing, whether he properly waived his right to testify, whether the evidence was sufficient to support the finding of guilt, and whether the sentence was the result of an erroneous exercise of discretion. This court is satisfied that the no-merit report properly analyzes the issues it raises as without merit, and this court will not discuss them further. Additionally, we cannot conclude that each eight-year sentence when measured against the maximum forty-year sentence is excessive or unusual so as to shock public sentiment. *See Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975).

² The trial court granted that portion of the postconviction motion requesting that one DNA surcharge be vacated because at sentencing the court indicated that the surcharge be imposed only for one count.

Although the no-merit report does not specifically discuss other aspects of the jury trial and the postconviction motion ruling, our review of the record leads us to conclude that no other issue of arguable merit exists. During jury voir dire, the parties agreed upon the jurors to be struck for cause. The jury instructions at trial were proper, evidentiary objections were handled appropriately, there was no impropriety in the opening statements and closing arguments, the court's rulings on the defense motions for dismissal at the close of the prosecution's case and for a directed verdict were proper, and the jury was polled when the verdict was delivered to confirm that the verdict was unanimous. The denial of the postconviction motion seeking reconsideration of eligibility for early release programs was a proper exercise of discretion. *See* WIS. STAT. § 973.01(3g) (determining eligibility for early release programs is part of court's sentencing discretion). There being no arguably meritorious issues for appeal, this court accepts the no-merit report, affirms the conviction and the order denying postconviction relief, and discharges appellate counsel of the obligation to represent Youngblood further in this appeal.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney John T. Wasielewski is relieved from further representing Daquon J. Youngblood 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