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DISTRICT I

September 6, 2019

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

2019AP349-CRNM State of Wisconsin v. Stacy Lamont Hackett-Dodd
(L.C. # 2016CF3671)

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).

Stacy Lamont Hackett-Dodd appeals from a judgment of conviction for possession of cocaine with intent to deliver as a subsequent drug offense. 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.

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

738 (1967). Hackett-Dodd 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 is summarily affirmed because we conclude that there is no arguable merit to any issue that could be raised on appeal. *See* WIS. STAT. RULE 809.21.

Hackett-Dodd was arrested during a traffic stop after being identified as a suspect in an armed robbery of an O'Reilly's Auto Parts store. Hackett-Dodd had 1.40 grams of cocaine in his car. Hackett-Dodd was charged with armed robbery, false imprisonment, and possession of cocaine with intent to deliver as a subsequent drug offense. He entered a guilty plea to armed robbery, false imprisonment, and an amended drug charge. Before sentencing on those convictions, Hackett-Dodd moved to withdraw his guilty plea because the prosecution failed to disclose to him that the armed robbery victim had been killed prior to the plea hearing. The motion was granted.

At a subsequent plea hearing, the armed robbery and false imprisonment charges were dismissed. Hackett-Dodd pled guilty to the drug offense as originally charged—possession of cocaine with intent to deliver as a subsequent drug offense. The prosecution agreed to remain silent at sentencing as to the specific location or length of the sentence. Hackett-Dodd was sentenced to five years' initial confinement and four years' extended supervision. Sentence credit of 595 days was granted. Hackett-Dodd was also found eligible for early release programs after serving four years.

The no-merit report discusses whether Hackett-Dodd's plea was knowingly, voluntarily, and intelligently entered and whether the sentence was the result of an erroneous exercise of discretion. We are satisfied that the no-merit report properly analyzes these issues as without

merit. As it relates to sentencing, we observe that the sentencing court properly considered the facts of the dismissed charges as bearing on Hackett-Dodd's character. *See State v. Frey*, 2012 WI 99, ¶54, 343 Wis. 2d 358, 817 N.W.2d 436. Also, the nine year sentence when measured against the maximum sixteen and one-half year sentence is not so excessive or unusual so as to shock public sentiment.² *See Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975).

Our review of the record discloses no other potential issues for appeal.³ Accordingly, this court accepts the no-merit report, affirms the conviction, and discharges appellate counsel of the obligation to represent Hackett-Dodd further in this appeal.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Carl W. Chesshir is relieved from further representing Stacy Lamont Hackett-Dodd in this appeal. *See* WIS. STAT. RULE 809.32(3).

² About seven weeks after sentencing, Hackett-Dodd filed a pro se request to modify the waiting period for earned release program eligibility. The sentencing court denied the request explaining that the waiting period is an integral component of the punishment. There is no arguable merit to a potential claim that the court erroneously exercised its discretion in denying the request to reduce the waiting period.

³ Any other possible appellate issues from the proceedings before entry of the plea are waived because Hackett-Dodd's guilty plea waived the right to raise nonjurisdictional defects and defenses, including claimed violations of constitutional rights. *State v. Lasky*, 2002 WI App 126, ¶11, 254 Wis. 2d 789, 646 N.W.2d 53.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Sheila T. Reiff
Clerk of Court of Appeals