



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 IV

September 12, 2019

To:

Hon. Todd L. Ziegler
Circuit Court Judge
112 S. Court St., Rm. 301
Sparta, WI 54656

Shirley Chapiewsky
Clerk of Circuit Court
Monroe County Courthouse
112 S. Court St., Rm. 2200
Sparta, WI 54656

Kevin D. Croninger
District Attorney
112 S. Court St., #201
Sparta, WI 54656-1772

Suzanne Edwards
Law Office of Suzanne Edwards
P.O. Box 70
Dodgeville, WI 53533-0070

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

Cody Derek Nelson 576972
Stanley Correctional Inst.
100 Corrections Drive
Stanley, WI 54768

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

2018AP181-CRNM State v. Cody Derek Nelson (L.C. # 2015CF252)

Before Fitzpatrick, P.J., Blanchard and Graham, J.J.

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 Suzanne Edwards, appointed counsel for Cody Nelson, has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2017-18)¹ and *Anders v. California*, 386 U.S. 738

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

(1967). Counsel provided Nelson with a copy of the report, and both counsel and this court advised him of his right to file a response. Nelson has not responded. We conclude that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. After our independent review of the record, we conclude there is no arguable merit to any issue that could be raised on appeal.

After a jury trial, Nelson was convicted of one count of armed robbery, one felony count of concealing stolen property, and one misdemeanor count of concealing stolen property. On the armed robbery count the court imposed a sentence of five years of initial confinement and seven years of extended supervision. The court imposed lesser concurrent sentences on the other counts.

The no-merit report addresses whether the evidence was sufficient to support the convictions. We affirm the verdict unless the evidence, viewed most favorably to the State and the conviction, is so insufficient in probative value and force that no reasonable trier of fact could have found guilt beyond a reasonable doubt. *State v. Poellinger*, 153 Wis. 2d 493, 501, 451 N.W.2d 752 (1990). Credibility of witnesses is for the trier of fact. *Id.* at 504.

Without attempting to recite the evidence in detail here, the testimony of Nelson's admitted accomplice was sufficient to support the convictions. She testified that Nelson drove the vehicle to and from the robbery. She testified that Nelson was involved in concealing the stolen money and depositing items related to the robbery in a garbage container. The testimony of a police officer established, for the misdemeanor count, that the stolen purse was concealed in the garbage container. Their testimony was not inherently incredible and, if believed by the jury, was sufficient to meet the elements of the charges.

The no-merit report addresses whether the court erroneously exercised its sentencing discretion. The standards for the circuit court and this court on sentencing issues are well-established and need not be repeated here. *See State v. Gallion*, 2004 WI 42, ¶¶17-51, 270 Wis. 2d 535, 678 N.W.2d 197. In this case, the court considered appropriate factors, did not consider improper factors, and reached a reasonable result. There is no arguable merit to this issue.

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 Edwards is relieved of further representation of Nelson 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