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DISTRICT IV

September 13, 2019

To:

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Robert L. Terrell 652886
Not mailed--Address Unknown

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

2017AP1629-CRNM State of Wisconsin v. Robert L. Terrell (L.C. # 2016CF2126)

Before Kloppenburg, Graham and Nashold, 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 Frances Colbert, appointed counsel for Robert Terrell, 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). Counsel provided Terrell with a copy of the report, and both counsel and this court advised him of his right to file a response. Terrell has not responded. We conclude that this case

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

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, Terrell was convicted of one count each of strangulation, misdemeanor battery, and disorderly conduct. The court imposed a sentence on the strangulation count of eighteen months of initial confinement and eighteen months of extended supervision, and lesser concurrent sentences on the misdemeanor counts.

The no-merit report addresses whether the evidence was sufficient to support the jury verdicts. We affirm the verdicts 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 details of the evidence here, we conclude that the evidence was sufficient. The officer's testimony about the officer's observations and the victim's statements was not inherently incredible. In addition, there was a 911 call recording and testimony from the victim's neighbor. If that evidence was believed by the jury, it was sufficient to meet every element of the charges. There is no arguable merit to this issue.

The no-merit report addresses whether the circuit court properly admitted letters drafted by Terrell and placed in the jail mail system for mailing to the victim. As explained in the no-merit report, the letters were relevant because they arguably were an attempt by Terrell to discourage the victim from testifying, or from testifying truthfully, which could be interpreted as showing consciousness of guilt on his part. There is no arguable merit to this issue.

The no-merit report addresses whether the circuit court properly admitted the testimony of the State's expert on strangulation. As explained in the no-merit report, the court considered the proper legal factors and reached a reasonable decision. And, the expert's testimony stayed within the bounds of what could properly be testified to. There is no arguable merit to this issue.

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 judgments of conviction are summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Colbert is relieved of further representation of Terrell 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