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DISTRICT I

Amended September 19, 2019
August 29, 2019

To:

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Circuit Court Judge
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Milwaukee, WI 53233

Hon. Mary M. Kuhnmuensch
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Milwaukee County Courthouse
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You are hereby notified that the Court has entered the following opinion and order:

2018AP2100-CRNM State of Wisconsin v. Taninja M. Mitchell
(L.C. # 2014CF125)

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).

Taninja M. Mitchell appeals a judgment convicting her of four counts of child abuse, recklessly causing great harm, and one count of neglecting a child, resulting in bodily harm. She also appeals an order denying her postconviction motion and an order denying her motion for

reconsideration. Attorney Kaitlin A. Lamb 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). Mitchell filed a response, which the court has thoroughly considered. 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 Mitchell could raise on appeal. Therefore, we summarily affirm the judgment of conviction and orders denying postconviction relief. *See* WIS. STAT. RULE 809.21.

The no-merit report addresses whether there would be any basis for arguing that Mitchell should be allowed to withdraw her guilty pleas. 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 a defendant to ascertain that the defendant understands the elements of the crimes to which she is pleading guilty, the constitutional rights she is waiving by entering the pleas, and the maximum potential penalties that could be imposed. *See* WIS. STAT. § 971.08; *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906. Based on the circuit court's thorough plea colloquy with Mitchell, which addressed all of the factors enumerated in § 971.08, we conclude that there would be no arguable merit to an appellate challenge to her pleas.

The no-merit report next addresses whether there would be arguable merit to an appellate challenge to her sentence. The circuit court sentenced Mitchell to an aggregate term of twenty-two years of initial confinement and twelve years of extended supervision. The circuit court

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

considered the objectives of sentencing and applied the pertinent factors and circumstances of this case in accord with controlling law. The circuit court's sentencing decision comports with the framework set forth in *State v. Gallion*, 2004 WI 42, ¶¶39-46, 270 Wis. 2d 535, 678 N.W.2d 197. The circuit court's decision to disregard the COMPASS assessment's conclusion that Mitchell was at low risk to reoffend is not a new factor entitling Mitchell to sentence modification because it was known at the time of sentencing. Moreover, the circuit court's decision was based on the fact that Mitchell's answers to the COMPASS assessment questions were not consistent with her actions in this case, as the circuit court explained in its written order denying the postconviction motion. Therefore, there would be no arguable merit to an appellate challenge to the sentence.

The no-merit report addresses whether there would be arguable merit to any of the claims that Mitchell raised in her postconviction motion. The no-merit report thoroughly addresses each of the issues and explains why they have no arguable merit due in part to legal developments during the pendency of the case and the postconviction court's findings. We agree with counsel's analysis in the report. Therefore, we conclude that there would be no arguable merit to an argument that the circuit court erred in denying the postconviction motion.

Our independent review of the record reveals no arguable basis for an appeal. Therefore, we affirm the judgment of conviction and orders denying postconviction relief. We also relieve Attorney Kaitlin A. Lamb of further representation of Mitchell.

Upon the foregoing,

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

IT IS FURTHER ORDERED that Attorney Kaitlin A. Lamb is relieved of any further representation of Mitchell in these matters. *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