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DISTRICT II

November 20, 2019

To:

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

2019AP1420-CRNM State of Wisconsin v. Di Jon Jai Ree Gerald Witherspoon
(L.C. #2017CF276)

2019AP1421-CRNM State of Wisconsin v. Di Jon Jai Ree Gerald Witherspoon
(L.C. #2017CF281)

Before Neubauer, C.J., Reilly, P.J., and Gundrum, 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).

Di Jon Jai Ree Gerald Witherspoon appeals from judgments of conviction for being a party to the crime of substantial battery and misdemeanor bail jumping. His appellate counsel

has filed no-merit reports pursuant to WIS. STAT. RULE 809.32 (2017-18)¹ and *Anders v. California*, 386 U.S. 738 (1967). Witherspoon received a copy of the reports, was advised of his right to file a response, and has elected not to do so. Upon consideration of the reports and an independent review of the records, the judgments are 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.

Witherspoon went to collect a \$100 drug debt from V.F. He and four women picked V.F. up and drove around. The women were hitting V.F. while in the car. V.F. reported that after stopping near a wooded location, Witherspoon punched her several times, causing her to lose at least three front teeth. At the time this occurred, Witherspoon was out on a signature bond in connection with a misdemeanor case. Witherspoon was charged with substantial battery, misdemeanor bail jumping, and disorderly conduct. After being arrested for the assault, Witherspoon was found to be in possession of twenty-three counterfeit bills that he admitted he printed off from the internet. He was charged with uttering a forgery and misdemeanor bail jumping.

Pursuant to a plea agreement, Witherspoon entered a no contest plea to substantial battery as a party to the crime² and the second charged bail jumping. All other counts were dismissed as read-ins at sentencing. The agreement was that both sides were free to argue for an appropriate sentence. Witherspoon was sentenced to a total of eighteen months of initial confinement and

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

² The parties agreed to amend the charge to include party to the crime liability because Witherspoon denied that he ever punched V.F.

two years of extended supervision on the substantial battery conviction and six months consecutive jail time on the bail jumping conviction. Seven months after sentencing, restitution was ordered in the amount of \$5200.³

The no-merit reports address the potential issues of whether Witherspoon's plea was knowingly, voluntarily, and intelligently entered and whether the sentence was the result of an erroneous exercise of discretion or unduly harsh or excessive. This court is satisfied that the no-merit reports properly analyze the issues they raise as without merit, and this court will not discuss them further.

Our review of the record discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit reports, affirms the convictions, and discharges appellate counsel of the obligation to represent Witherspoon further in these appeals.

Upon the foregoing reasons,

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

³ The records do not include a transcript of the restitution hearing held January 15, 2019. It is not known if Witherspoon contested the amount of restitution requested by V.F. Evidence at the hearing was that each dental implant would cost \$1300. Restitution of \$5200 covers dental implants for four teeth. There is no arguable merit to a claim that restitution was excessive.

IT IS FURTHER ORDERED that Attorney Lane Fitzgerald is relieved from further representing Di Jon Jai Ree Gerald Witherspoon in these appeals. *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