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DISTRICT II

December 18, 2019

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

2018AP1420-CR	State of Wisconsin v. Bryson T. Tompkins (L.C. #2015CF239)
2018AP1421-CR	State of Wisconsin v. Bryson T. Tompkins (L.C. #2015CF479)

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).

In these consolidated cases, Bryson T. Tompkins appeals from judgments of conviction and an order denying his motion for postconviction relief. He seeks to either vacate his judgments or obtain an evidentiary hearing on his plea withdrawal request. Based upon our

review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2017-18).¹ We affirm.

Tompkins was convicted following guilty pleas to two counts of obstructing an officer, causing a soft tissue injury. The charges stemmed from two separate incidents in which Tompkins ran from the police while they were pursuing him on a warrant. Each time, officers sustained injuries chasing and ultimately apprehending him. For his actions, the circuit court sentenced Tompkins to a total of four years, three months of initial confinement and six years of extended supervision.

After sentencing, Tompkins filed a motion for postconviction relief. In it, he complained that the charging documents failed to state an offense known to law. This was due to the documents' alleged failure to include the knowledge element of the crimes (i.e., that Tompkins knew that the officers were acting in an official capacity and with lawful authority). Tompkins further complained that the circuit court failed to ensure in its plea colloquy that he understood the nature of the crimes with which he was charged. The circuit court denied the motion without an evidentiary hearing. This appeal follows.

On appeal, Tompkins contends that the circuit court erred in denying his motion for postconviction relief. He renews the claims described above and asks this court to either vacate his judgments or grant him an evidentiary hearing on his plea withdrawal request.

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

With respect to Tompkins' first argument, we are not persuaded that the charging documents were defective. As noted by the State, each document tracked the language of the applicable criminal statute, WIS. STAT. § 946.41, which is an offense known to law. Moreover, each document cited to that statute, which automatically incorporated all elements of the offense. *See State ex rel. Bell v. County Ct. for Columbia Cty.*, 82 Wis. 2d 401, 408, 263 N.W.2d 162 (1978) (“[W]hen the information contains a citation to the statutory section alleged to have been violated ... the reference ‘necessarily carry[es] with it all of the elements of the offense charged under that section.’” (citation omitted)).

With respect to Tompkins' second argument, we are not persuaded that the circuit court's plea colloquy was deficient. Here, the court fulfilled its duty to ensure that Tompkins understood the nature of the crimes with which he was charged. It did so by reading each one directly from the amended information in each case. Tompkins responded unequivocally that he understood the charges. Likewise, his trial counsel expressed satisfaction that Tompkins understood them. Because the record reflects that Tompkins entered his plea knowingly, voluntarily, and intelligently, the circuit court did not err in denying his motion without an evidentiary hearing. *See State v. Taylor*, 2013 WI 34, ¶39, 347 Wis. 2d 30, 829 N.W.2d 482.²

Upon the foregoing reasons,

² Tompkins notes that the jury instruction attached to his plea questionnaire was for resisting an officer, not obstructing an officer. As a threshold matter, the elements of those offenses are nearly identical, as resisting and obstructing are alternative means of violating WIS. STAT. § 946.41. *See* WIS JI-CRIMINAL 1765 and WIS JI-CRIMINAL 1766. In any event, the circuit court's reliance on the amended information in each case rendered the attachment harmless.

IT IS ORDERED that the judgments and order of the circuit court are summarily affirmed, pursuant to WIS. STAT. RULE 809.21.

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

Sheila T. Reiff
Clerk of Court of Appeals