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DISTRICT I

January 13, 2020

To:

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

2018AP2454-CRNM State of Wisconsin v. Regina Paskel (L.C. # 2018CF1177)

Before Brash, P.J., Kessler and Donald, 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).

Regina Paskel appeals judgments of conviction entered after she pled guilty to one felony count of discharging bodily fluids at a public safety worker and one misdemeanor count of resisting an officer. Appellate counsel, Attorney Leon W. Todd III, filed a no-merit report pursuant to *Anders v. California*, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32 (2017-18).¹

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

Paskel did not file a response. Based upon our review of the no-merit report and the record, we conclude that no arguably meritorious issues exist for an appeal, and we summarily affirm. *See* WIS. STAT. RULE 809.21.

According to the criminal complaint, on March 12, 2018, a police officer determined that Paskel was in possession of drug paraphernalia during the course of an investigative stop of a vehicle. Paskel resisted the officer's efforts to take her into custody, and she spat in the officer's face when she reached the police station. The State charged her with discharging bodily fluids at a public safety worker and resisting an officer. Paskel quickly decided to resolve the charges against her with a plea agreement. Pursuant to its terms, she pled guilty as charged, and the State agreed to recommend concurrent confinement as a disposition without specifying the length of a recommended term.

The matters proceeded to sentencing. For the felony conviction, Paskel faced maximum penalties of a \$10,000 fine and imprisonment for three and one-half years. *See* WIS. STAT. §§ 941.375(2), 939.50(3)(i). For the misdemeanor conviction, she faced maximum penalties of a \$10,000 fine and nine months in jail. *See* WIS. STAT. §§ 946.41(1), 939.51(3)(a). The circuit court imposed an evenly bifurcated two-year term of imprisonment for the felony and a consecutive six-month jail sentence for the misdemeanor. The circuit court further ordered Paskel to serve the sentences consecutive to the sentence she was already serving following revocation of her community supervision for a prior conviction of discharging bodily fluids at a public safety worker. The circuit court went on to find Paskel eligible to participate in the Wisconsin substance abuse program but ineligible to participate in the challenge incarceration program.

We first consider whether Paskel could pursue an arguably meritorious challenge to the validity of her guilty pleas. We conclude that she could not do so. The circuit court determined that Paskel had completed a guilty plea questionnaire and waiver of rights form and that she understood its contents. *See State v. Pegeese*, 2019 WI 60, ¶37, 387 Wis. 2d 119, 928 N.W.2d 590. The circuit court then conducted a guilty plea colloquy that complied with the circuit court's obligations when accepting a plea other than not guilty. *See id.*, ¶23; *see also* WIS. STAT. § 971.08; *State v. Bangert*, 131 Wis. 2d 246, 266-72, 389 N.W.2d 12 (1986). The record—including the plea questionnaire and waiver of rights form and addendum, the attached jury instructions describing the elements of the crimes to which Paskel pled guilty, and the plea hearing transcript—demonstrates that Paskel entered her guilty pleas knowingly, intelligently, and voluntarily.

We also conclude that Paskel could not pursue an arguably meritorious challenge to the circuit court's exercise of sentencing discretion. *See State v. Gallion*, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197. The circuit court indicated that deterrence and public protection were the primary sentencing goals, and the circuit court discussed the sentencing factors that it viewed as relevant to achieving those goals. *See id.*, ¶¶41-43. The sentences that the circuit court selected were well within the limits of the maximum sentences allowed by law and cannot be considered unduly harsh or unconscionable. *See State v. Grindemann*, 2002 WI App 106, ¶¶31-32, 255 Wis. 2d 632, 648 N.W.2d 507.

Finally, we have considered whether Paskel could pursue an arguably meritorious challenge to the circuit court's finding that she is ineligible to participate in the challenge incarceration program. The record is uncontroverted that Paskel was forty years old on the date of sentencing. She was therefore statutorily disqualified from participating in the challenge

incarceration program. *See* WIS. STAT. § 302.045(2)(b). Further pursuit of this issue would be frivolous within the meaning of *Anders*.

Our independent review of the record does not disclose any other potential issues warranting discussion. We conclude that further postconviction or appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

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

IT IS FURTHER ORDERED that Attorney Leon W. Todd III, is relieved of any further representation of Regina Paskel. *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