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DISTRICT III

February 25, 2020

To:

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

2018AP1653-CRNM State of Wisconsin v. Stephanie A. Deyot (L. C. No. 2016CF983)

Before Stark, P.J., Hruz and Seidl, 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).

Counsel for Stephanie Deyot has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2017-18),¹ concluding there is no basis for challenging the sentence imposed after revocation of Deyot's probation. Deyot was informed of her right to respond to the report and

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

has not responded. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude there is no arguable merit to any issue that could be raised on appeal. Therefore, we summarily affirm the judgment of conviction. See WIS. STAT. RULE 809.21.

The State charged Deyot with burglary of a building or dwelling; misdemeanor theft; disorderly conduct; and two counts of misdemeanor bail jumping, all five counts as a repeater. As part of a global plea agreement, Deyot entered no-contest pleas to the burglary as a repeater count in this case and two counts of misdemeanor retail theft, as a repeater, in two other cases.² In exchange for her no-contest pleas, the State agreed to recommend that the court dismiss and read in the remaining counts. On the burglary count that is the subject of this appeal, the circuit court withheld sentence and placed Deyot on probation for four years. Deyot's probation was later revoked and, out of a maximum possible sentence of eighteen and one-half years, the court imposed a six-and-one-half-year sentence, consisting of eighteen months' initial confinement and five years' extended supervision.

As the no-merit report acknowledges, an appeal from a judgment imposing sentence after probation revocation does not bring the underlying conviction before us. See *State v. Drake*, 184 Wis. 2d 396, 399-400, 515 N.W.2d 923 (Ct. App. 1994). Additionally, the validity of the probation revocation itself is not the subject of this appeal. See *State ex rel. Flowers v. DHSS*, 81 Wis. 2d 376, 384, 260 N.W.2d 727 (1978) (holding that probation revocation is independent from underlying criminal action); see also *State ex rel. Johnson v. Cady*, 50 Wis. 2d 540, 550,

² The other two cases, Eau Claire County Circuit Court case Nos. 2016CM969 and 2016CM970, are not before us in this no-merit appeal.

185 N.W.2d 306 (1971) (concluding that judicial review of probation revocation is by petition for certiorari in circuit court). This court's review is therefore limited to issues arising from the sentencing after Deyot's probation revocation.

The no-merit report addresses whether the circuit court properly exercised its discretion when imposing the sentence after revocation. Upon reviewing the record, we agree with counsel's description, analysis, and conclusion that any challenge to the court's sentencing discretion would lack arguable merit. The no-merit report also reflects that counsel concluded there were no grounds upon which she could make a nonfrivolous argument establishing judicial bias; ineffective assistance of trial counsel; or the right to additional sentence credit. Although counsel's analysis of these possible issues is perfunctory, our review of the record confirms that any challenge to the sentence after revocation on these grounds would lack arguable merit. Our independent review of the record discloses no other potential issues for appeal.

Therefore,

IT IS ORDERED that the judgment is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that attorney Diane Lowe is relieved of further representing Stephanie Deyot 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