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DISTRICT II

March 4, 2020

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

2019AP1038-CRNM State of Wisconsin v. Joe Vallin, III (L.C. #2014CF981)

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

Joe Vallin, III, appeals from a judgment convicting him of first-degree sexual assault of a child. His appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2017-18)¹ and *Anders v. California*, 386 U.S. 738 (1967). Vallin received a copy of the report, was

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

advised of his right to file a response, and has elected not to do so. Upon consideration of the report and an independent review of the record, we conclude that there are no issues with arguable merit for appeal. Therefore, we summarily affirm the judgment. *See* WIS. STAT. RULE 809.21.

Vallin was convicted following a jury trial of first-degree sexual assault of a child. He was accused of having sexual contact with his former girlfriend's daughter when she was twelve years old. The circuit court imposed a sentence of five years of initial confinement and ten years of extended supervision. This no-merit appeal follows.

The no-merit report addresses whether the evidence at Vallin's jury trial was sufficient to support his conviction. When reviewing the sufficiency of the evidence, we may not substitute our judgment for that of the jury "unless the evidence, viewed most favorably to the state and the conviction, is so lacking in probative value and force that no trier of fact, acting reasonably, could have found guilt beyond a reasonable doubt." *State v. Poellinger*, 153 Wis. 2d 493, 507, 451 N.W.2d 752 (1990). Our review of the trial transcripts persuades us that the State produced ample evidence to convict Vallin of his crime. That evidence included testimony from the victim, whom the circuit court later described as "a very compelling witness." It also included testimony from a police officer who recounted Vallin's inculpatory statement about the incident. We agree with counsel that a challenge to the sufficiency of the evidence would lack arguable merit.

The no-merit report also addresses whether the circuit court properly exercised its discretion at sentencing. The record reveals that the court's sentencing decision had a "rational and explainable basis." *State v. Gallion*, 2004 WI 42, ¶76, 270 Wis. 2d 535, 678 N.W.2d 197 (citation omitted). In fashioning its sentence, the court considered the seriousness of the offense, Vallin's character, and the need to protect the public. *See State v. Ziegler*, 2006 WI App 49, ¶23,

289 Wis. 2d 594, 712 N.W.2d 76. Under the circumstances of the case, which were aggravated by Vallin’s father-like relationship with the victim, the sentence imposed does not “shock public sentiment and violate the judgment of reasonable people concerning what is right and proper.” *Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). We agree with counsel that a challenge to Vallin’s sentence would lack arguable merit.

Finally, the no-merit report addresses several other issues, including (1) whether Vallin’s statement to police was admissible, (2) whether the jury was selected in a lawful manner, (3) whether the jury instructions accurately conveyed the applicable law, (4) whether trial objections were properly ruled on, (5) whether improper arguments were made in opening statements or closing arguments, and (6) whether the court appropriately responded to the jury’s questions during deliberation. We agree with counsel that these issues do not have arguable merit for appeal, and we will not discuss them further.

Our independent review of the record does not disclose any potentially meritorious issue for appeal. Because we conclude that there would be no arguable merit to any issue that could be raised on appeal, we accept the no-merit report and relieve Attorney Angela Conrad Kachelski of further representation in this appeal.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Angela Conrad Kachelski is relieved of further representation of Joe Vallin, III, in this appeal. *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