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DISTRICT III

March 17, 2020

To:

Hon. Mitchell J. Metropulos
Circuit Court Judge
320 S. Walnut Street
Appleton, WI 54911

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

2018AP857-CRNM State of Wisconsin v. Thai Thao (L. C. No. 2017CF459)

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 Thai Thao has filed a no-merit report concluding there is no basis to challenge Thao's conviction for possession of narcotic drugs, in violation of WIS. STAT. § 961.41(3g)(am) (2017-18).¹ Thao was advised of his right to respond and has not responded.

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

Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude there is no merit to any issue that could be raised on appeal, and we summarily affirm. *See* WIS. STAT. RULE 809.21.

Police officers responded to a hotel in Little Chute after Thao had called police, stating he was afraid. An officer met with Thao, who told the officer there were two black males and one white male at the hotel that were “scouting him out” to cause him harm. Thao did not know who these men were, but “they were washing their cars out in the parking lot of [the] hotel.” When another officer checked, no one was washing a vehicle in the hotel parking lot and there was no water, buckets, or any other indication of anyone having washed a car. Thao also told the officer that another individual “had put drugs in his toothpaste and facewash.” According to Thao, this individual was “after” Thao to blackmail him because Thao was good at soccer. This individual had also hired the three males Thao had observed outside the hotel room. Thao further stated that someone stole his car key from his suitcase and made a copy of it, and that person later stole his vehicle.

The officer suspected Thao was under the influence of a prohibited substance or suffering from mental health issues. Thao consented to a search of his hotel room, and the officer discovered methamphetamine in a laptop bag. Thao denied the laptop bag was his, and he also denied knowing the identity of the substance in the bag. Thao claimed the laptop bag came from his vehicle, and he believed somebody put it in there when his vehicle was stolen. He also claimed the laptop bag was in his hotel room because “he was just moving stuff from his vehicle into the room.” Thao was subsequently arrested, and a search of Thao’s person incident to arrest revealed a zip-lock bag containing opium.

An amended Information charged Thao with one count of possession of methamphetamine and one count of possession of narcotic drugs. The case proceeded to trial. The jury convicted Thao on the opium charge and acquitted him on the methamphetamine charge. The circuit court withheld sentence and placed Thao on two years' probation.

The no-merit report addresses potential issues regarding whether sufficient evidence supported the conviction; whether the search incident to arrest was proper; and whether the circuit court properly exercised its sentencing discretion. Upon our independent review of the record, we agree with counsel's description, analysis, and conclusion that any challenge to these issues would lack arguable merit, and we will not further address them.

Our independent review of the record discloses no other potential issues for appeal.

Therefore,

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

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