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DISTRICT II/III

March 17, 2020

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

2018AP108-CRNM State of Wisconsin v. Lewis C. Caples (L. C. No. 2015CF1792)

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 Lewis Caples has filed a no-merit report concluding there is no basis to challenge Caples' conviction for first-degree reckless injury, as a repeater. Caples was advised of his right to respond and 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 merit to any

issue that could be raised on appeal, and we summarily affirm. *See* WIS. STAT. RULE 809.21 (2017-18).¹

According to the criminal complaint, Racine police officers were dispatched to a local hospital in regard to a woman with a severe laceration to her throat. Upon arrival, family members told the officers that the victim had nodded “yes” when they asked her if her boyfriend caused the laceration. An officer then went into the intensive care unit and observed the victim nod “yes” when asked if her boyfriend caused the injury. The victim was also interviewed by officers in the critical care unit, where she had a breathing tube down her throat and could not speak, but she was able to write answers on a pad of paper. The victim wrote that it was Caples who cut her throat. She also wrote that she was cut after she told Caples to leave.

Later, after the breathing tube was removed and the victim was able to speak, she told police that she and Caples returned home after being together in the evening, and she was in the kitchen making food. She then went into the bedroom, and Caples came up from behind her and slit her throat. She further stated that Caples had been smoking crack cocaine that evening.

The victim suffered a six-inch laceration to her throat from approximately the left side of the Adam’s apple all the way to the right side of her neck. Medical personnel stated the laceration missed a main artery by one millimeter, which would have more than likely caused the victim to bleed to death.

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

Caples was charged with attempted first-degree intentional homicide, with domestic abuse enhancements, as a repeater. Caples subsequently pleaded no contest to an amended charge of first-degree reckless injury, as a repeater. The circuit court imposed a sentence consisting of twenty years' initial confinement and ten years' extended supervision.

The no-merit report addresses issues regarding whether the plea was knowingly, intelligently, and voluntarily entered; 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 issue for appeal.²

Therefore,

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

IT IS FURTHER ORDERED that attorney Carl W. Chesshir is relieved of his obligation to further represent Lewis Caples 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

² We note the COMPAS risk assessment was mentioned in the presentence investigation report, but the record shows it was not "determinative" of the sentence imposed. *See State v. Loomis*, 2016 WI 68, ¶¶98-99, 371 Wis. 2d 235, 881 N.W.2d 749. Any challenge to the sentence based on COMPAS would therefore lack arguable merit.