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DISTRICT III

April 21, 2020

To:

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Shawano County Courthouse
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Shawano, WI 54166

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Elizabeth A. Tietsort
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You are hereby notified that the Court has entered the following opinion and order:

2018AP1320-CRNM State of Wisconsin v. Elizabeth A. Tietsort (L. C. No. 2016CF176)

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 Elizabeth Tietsort has filed a no-merit report concluding there is no basis to challenge Tietsort's convictions for possession of drug paraphernalia; possession of methamphetamine; and two counts of possession of controlled substances, all as repeaters. Tietsort was advised of her 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

A Shawano County sheriff's deputy stopped to assist a disabled vehicle with its hood up located in the driveway of a cemetery. The deputy asked the driver for her driver's license, and he was provided a Wisconsin identification card identifying her as Tietsort. The deputy ran Tietsort's information and was advised that Tietsort's driving privileges were revoked. The deputy also discovered that Tietsort was released from custody on a felony bond with a condition not to commit additional crimes. The deputy observed an open alcoholic beverage in plain view, in the cup holder of the center console of the vehicle. He asked Tietsort if she had anything else illegal in the vehicle other than the open alcoholic beverage, and Tietsort stated she had Vicodin in her purse. The deputy asked if she had a prescription for Vicodin, and Tietsort initially stated she did but then stated she had purchased the Vicodin from "the farm just down the road."

Tietsort consented to a search of her purse. Upon searching the purse, the deputy observed a glass pipe recognized as drug paraphernalia commonly used to smoke methamphetamine. The deputy also discovered plastic baggies containing methamphetamine, Tramadol, and Hydrocodone.

Tietsort was charged with: (1) operating a motor vehicle while revoked; (2) possession of drug paraphernalia, as a repeater; (3) possession of methamphetamine, as a second or subsequent offense; (4) possession of a controlled substance (Tramadol); and (5) possession of a controlled substance (Hydrocodone). An amended complaint and Information were

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

subsequently filed charging possession of methamphetamine as a repeater; charging the two counts of possession of controlled substances as repeaters; and adding Counts 6 through 10 of felony bail jumping, all as repeaters. Tietsort agreed to plead no contest to Counts 2, 3, 4 and 5. In exchange, Count 1 was dismissed and read in, and Counts 6 through 10 were dismissed outright. A citation for open intoxicants in a motor vehicle was also dismissed, and the prosecution further agreed not to charge an unrelated matter.

The circuit court imposed and stayed a one-year sentence and it ordered concurrent three years' probation, with 120 days' jail with Huber privileges as a condition. The Wisconsin Department of Corrections sent correspondence to the court indicating a belief that the maximum original term of probation on Counts 2, 4, and 5 was two years. The court subsequently ordered that the judgment of conviction be amended to reflect a probation term of two years on Counts 2, 4 and 5. Tietsort filed a motion for resentencing on the ordered 120 days of jail, claiming health deterioration. The court denied the motion but granted Tietsort a furlough to report to jail because of medical issues.

The no-merit report identifies potential issues regarding whether Tietsort's pleas were knowingly, intelligently, and voluntarily entered;² whether a sufficient factual basis supported the convictions; whether the circuit court erroneously exercised its sentencing discretion; and the effectiveness of Tietsort's trial counsel. We agree with counsel's description, analysis, and

² The record reveals that Tietsort was born in the United States, and any challenge to the circuit court not personally advising Tietsort of the deportation consequences of her plea as mandated by WIS. STAT. § 971.08(1)(c) would therefore lack arguable merit.

conclusion that any challenge to these issues would lack arguable merit, and we will not further address the issues.

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 Amber Gratz is relieved of her obligation to further represent Elizabeth Tietsort 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