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April 28, 2020

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

2018AP2057-CRNM	State of Wisconsin v. Anthony Eugene Perkins (L.C. # 2016CF43)
2018AP2058-CRNM	State of Wisconsin v. Anthony Eugene Perkins (L.C. # 2016CF1694)

Before Brash, P.J., Dugan and Donald, 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).

In these consolidated appeals, Anthony Eugene Perkins appeals judgments of conviction for one count of interfering with child custody, one count of false imprisonment as a party to a crime, two counts of felony bail jumping, and one count of misdemeanor battery (as domestic abuse). See WIS. STAT. §§ 948.31(1)(b), 940.30, 939.05, 946.49(1)(b), 940.19(1), and

968.075(1)(a)1. (2015-16).¹ Perkins's appellate counsel, Diane Lowe, has filed a no-merit report pursuant to *Anders v. California*, 386 U.S. 738 (1967) and WIS. STAT. RULE 809.32. Perkins was served with a copy of the no-merit report and advised of his right to file a response. Although he requested and was granted additional time to file a response, he ultimately did not file a response. We have independently reviewed the records and the no-merit report as mandated by *Anders*. We conclude that there is no issue of arguable merit that could be pursued on appeal. Therefore, we summarily affirm the judgments.

These appeals concern criminal complaints filed in January 2016 and April 2016. All of the charges relate to Perkins's interactions with T.T., a woman he dated and the mother of his child. According to the January 2016 criminal complaint, as T.T. was exiting her home with their child, Perkins approached her and demanded that she give him the child. T.T. fled to her sister's car, dropping the car seat containing the child as she ran. Perkins pounded on the car window, demanding that T.T. open the door. When she refused, Perkins took their child and fled. He later surrendered the child to a detective. At the time of this incident, Perkins had not been adjudicated the legal father of the child. He was charged with one count of interfering with child custody.

Perkins was released on bail and ordered not to have contact with T.T. In March 2016, his attorney suggested to the trial court that Perkins needed a mental health evaluation. Trial counsel said that she would make arrangements for Perkins to be examined.

Before the evaluation could be completed, Perkins violated the no-contact order with T.T., which resulted in the filing of the second criminal complaint. Specifically, in April 2016, Perkins

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

and another man entered the home where T.T. was staying. Perkins broke down the door to a bedroom where T.T. was hiding and, once inside, repeatedly struck her in the face. Perkins and the other man then forced T.T. to leave the home with them. Witnesses said that they saw the man with Perkins holding a gun over T.T.'s head. According to the criminal complaint, Perkins and the other man drove around looking for a place to take T.T. Eventually, they took T.T. to a residence, where the men learned that T.T.'s abduction had been broadcast on the news. T.T. was ultimately released. Perkins was charged with five felonies in connection with this incident, including kidnapping, false imprisonment, misdemeanor battery, and two counts of felony bail jumping.

A competency assessment was completed in May 2016, and the examiner opined that Perkins was competent to proceed. At a subsequent court hearing, trial counsel said that she and Perkins had discussed the report "quite extensively" and were not challenging the examiner's conclusion that Perkins was competent to proceed. The State agreed with the report's conclusion. The trial court found that Perkins was competent to proceed.²

In July 2016, at the request of trial counsel, a different psychologist completed a psychological evaluation of Perkins. The resulting ten-page report summarized Perkins's childhood, education, mental health history, juvenile and criminal history, and the potential need for alcohol and drug treatment.

² This court has reviewed the examiner's report. While it acknowledges that Perkins has mental health issues, it explains in detail why the examiner believed Perkins was competent to proceed. We discern no basis to challenge the report or the decision by trial counsel and Perkins not to contest the finding of competency.

Several weeks after the psychological evaluation was completed, Perkins entered into a plea agreement with the State pursuant to which he agreed to plead guilty to interference with child custody, false imprisonment as a party to a crime, misdemeanor battery, and two counts of felony bail jumping. In exchange for Perkins's guilty pleas, the State agreed to dismiss and read in the kidnapping charge and another felony bail jumping charge that was filed in Milwaukee County Circuit Court Case No. 2016CF1692. The State agreed to recommend a total sentence of ten to thirteen years of initial confinement and an unspecified period of time on extended supervision. The defense was free to argue for a different sentence.

In preparation for his plea hearing, Perkins completed plea questionnaires and addenda identifying the rights he was waiving. Trial counsel also provided copies of the jury instructions that she reviewed with Perkins.

The trial court conducted a thorough plea colloquy with Perkins and accepted his guilty pleas. After accepting Perkins's guilty pleas, the trial court dismissed two of the charges, consistent with the plea agreement.

At sentencing, the State recommended a sentence consistent with the plea agreement. Trial counsel urged the trial court to impose two to five years of initial confinement and a longer period of extended supervision. The trial court imposed five consecutive sentences totaling ten years and nine months of initial confinement and twelve years of extended supervision.

The no-merit report addresses two issues: (1) whether Perkins's guilty pleas were knowingly, intelligently, and voluntarily entered; and (2) whether the trial court erroneously exercised its sentencing discretion or imposed an illegal sentence. The no-merit report thoroughly discusses these issues, including references to relevant statutes, case law, transcripts, and other

court documents. This court is satisfied that the no-merit report properly analyzes the issues it raises.

With respect to Perkins's guilty pleas, the no-merit report analyzes the trial court's compliance with WIS. STAT. § 971.08 and *State v. Bangert*, 131 Wis. 2d 246, 261-62, 389 N.W.2d 12 (1986). For instance, the no-merit report notes that the trial court, among other things, told Perkins that it was not bound by the recommendations of the State and trial counsel and could "sentence [Perkins] to something else including up to the maximum." The trial court also discussed with Perkins the facts supporting each charge, and Perkins stipulated that the facts in the complaints were true. Appellate counsel concludes that there would be no arguable merit to asserting that Perkins's pleas were not knowingly, voluntarily, and intelligently entered. Having reviewed the records, including the plea hearing transcript, we agree with appellate counsel's conclusion.

The no-merit report also addresses the sentences that were imposed, providing citations to the sentencing transcript and analyzing the trial court's compliance with *State v. Gallion*, 2004 WI 42, ¶¶9, 41-43, 270 Wis. 2d 535, 678 N.W.2d 197. Appellate counsel concludes that there would be no arguable merit to assert that the trial court erroneously exercised its sentencing discretion, *see id.*, ¶17, or that the sentences were unduly harsh or excessive, *see Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). We agree with these assessments. The trial court thoroughly explained the sentences, and the total amount of incarceration imposed was well within the maximum potential sentence of seventeen years and three months of initial confinement and fourteen years of extended supervision. *See State v. Scaccio*, 2000 WI App 265, ¶18, 240 Wis. 2d 95, 622 N.W.2d 449 ("A sentence well within the limits of the maximum sentence is unlikely to be unduly harsh or unconscionable.").

Our review of the record discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit report, affirms the convictions, and discharges appellate counsel of the obligation to represent Perkins further in these appeals.

Upon the foregoing reasons,

IT IS ORDERED that the judgments of conviction are summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Diane Lowe is relieved from further representing Anthony Eugene Perkins in these appeals. *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