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DISTRICT IV

May 21, 2020

To:

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

2019AP551-CRNM State of Wisconsin v. Michael L. Wagner (L.C. # 2018CF508)

Before Fitzpatrick, P.J., Kloppenburg and Nashold, 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).

Attorney Michael Rosenberg, appointed counsel for Michael Wagner, has filed a no-merit report seeking to withdraw as appellate counsel pursuant to WIS. STAT. RULE 809.32 (2017-18)¹ and *Anders v. California*, 386 U.S. 738 (1967). Wagner was sent a copy of the

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

report and has not filed a response. Upon consideration of the report and an independent review of the record, we conclude that there is no arguable merit to any issue that could be raised on appeal.

Wagner was charged with attempted first-degree intentional homicide as an act of domestic abuse. The criminal complaint against Wagner included the following allegations. Wagner stated that he was “going to kill [the victim] and everyone in the house.” He proceeded to stab the victim more than ten times with a knife, saying: “You’re gonna die tonight.” Wagner left the knife in the victim’s chest and fled the scene, then admitted to the stabbing later that morning. The victim would have died had she not received medical attention.

Wagner agreed to plead guilty, and the State agreed to recommend a prison term with a cap of 15 years of initial confinement. The circuit court accepted Wagner’s plea. During the plea colloquy, Wagner admitted that the facts as alleged in the complaint accurately described his conduct, and the circuit court relied on the complaint to provide a factual basis for Wagner’s plea. The court imposed a 22-year term of imprisonment, consisting of 12 years of initial confinement and 10 years of extended supervision.

The no-merit report addresses whether Wagner’s plea was knowing, intelligent, and voluntary. We agree with counsel that there is no arguable merit to this issue. The plea colloquy sufficiently complied with the requirements of WIS. STAT. § 971.08 and *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906, relating to the nature of the charges, the rights Wagner was waiving, and other matters. The record shows no other arguable ground for plea withdrawal.

The no-merit report addresses whether the circuit court erroneously exercised its sentencing discretion. We agree with counsel that there is no arguable merit to this issue. The total sentence was within the maximum allowed, the circuit court discussed the required sentencing factors along with other relevant factors, and the court did not consider any inappropriate factors. *See State v. Gallion*, 2004 WI 42, ¶¶37-49, 270 Wis. 2d 535, 678 N.W.2d 197. The record shows no other arguable basis for Wagner to challenge his sentence.

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

Therefore,

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

IT IS FURTHER ORDERED that Attorney Michael Rosenberg is relieved of any further representation of Michael Wagner 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