



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688
Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT I

June 2, 2020

To:

Hon. T. Christopher Dee
Circuit Court Judge
Milwaukee County Courthouse
901 N. 9th St.
Milwaukee, WI 53233-1425

John Barrett
Clerk of Circuit Court
Room 114
821 W. State Street
Milwaukee, WI 53233

Dustin C. Haskell
Assistant State Public Defender
735 N. Water St., Rm. 912
Milwaukee, WI 53203

Karen A. Loebel
Deputy District Attorney
821 W. State St.
Milwaukee, WI 53233

Criminal Appeals Unit
Department of Justice
P.O. Box 7857
Madison, WI 53707-7857

Ryshard R. Littlejohn 643633
Racine Youthful Offender Corr. Facility
P.O. Box 2500
Racine, WI 53404-2500

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

2019AP1584-CRNM State of Wisconsin v. Ryshard R. Littlejohn (L.C. # 2018CF1834)

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

Ryshard R. Littlejohn appeals from a judgment, entered on his guilty pleas, convicting him of three felony offenses. Appellate counsel, Dustin C. Haskell, has filed a no-merit report, pursuant to *Anders v. California*, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32 (2017-18).¹

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

Littlejohn was advised of his right to file a response, but he has not responded. Upon this court's independent review of the record, as mandated by *Anders*, and counsel's report, we conclude that there are no issues of arguable merit that could be pursued on appeal. We therefore summarily affirm the judgment.

The criminal complaint indicates that a detective responded to Froedtert Hospital to meet a shooting victim. That victim, M.B., explained that he had been shot by Littlejohn, someone he had known for three to four months. M.B. said that he usually bought marijuana from Littlejohn but, on this occasion, he agreed to sell to Littlejohn. They arranged to meet in a gas station parking lot; M.B. drove there with his sister and brother.

At the gas station, M.B. got out of his car and entered the front passenger seat of Littlejohn's car. M.B. provided the marijuana, but Littlejohn did not pay for it; instead, he pulled out a gun, set it on his lap, and told M.B. to get out of the car, stating, "[T]his weed is mine." M.B. and Littlejohn began to fight for the gun; M.B. claimed that Littlejohn "racked" the gun several times and tried to shoot him while they were inside the vehicle.

Littlejohn exited his vehicle and ran to M.B.'s vehicle. M.B.'s sister reported that Littlejohn opened the front passenger door and pointed the handgun at her, saying, "I'm gonna tell you like this. Gimme everything you got." M.B. ran up and tackled Littlejohn; he and his sister struggled with Littlejohn, attempting to hold him down until police arrived. Littlejohn was able to break free and, at some point during the struggle, the gun discharged and the bullet traveled through M.B.'s right calf. Littlejohn ran from the scene because M.B. had taken his car keys. Both M.B. and his sister, who also had prior contacts with Littlejohn, identified him through a photo array.

Littlejohn was arrested and interviewed. He admitted that he and M.B. were both at the gas station and that he was there to buy marijuana. He claimed that M.B. shorted him on the amount, so he demanded money from M.B.'s sister. They fought with Littlejohn before he escaped. Littlejohn also told police that he had tossed the gun.

Littlejohn was charged with one count of attempted armed robbery as a habitual criminal; one count of second-degree recklessly endangering safety as a habitual criminal with use of a dangerous weapon; and one count of possession of a firearm by a felon as a habitual criminal. He ultimately agreed to resolve his case with a plea agreement. In exchange for his guilty pleas, the State agreed to dismiss the habitual criminality enhancers from all counts and to amend the endangering safety charge to a charge of injury by negligent handling of a firearm. At sentencing, the State would also recommend a prison sentence, but not a specific length.

The circuit court conducted a plea colloquy and accepted Littlejohn's pleas. Later, the circuit court sentenced Littlejohn to consecutive sentences totaling ten years of initial confinement and five years of extended supervision.

The first potential issue appellate counsel discusses is whether there would be any arguable merit to challenging the validity of Littlejohn's pleas. Our review of the record—including the plea questionnaire and waiver of rights form and appropriate jury instructions for the elements of Littlejohn's offenses—confirms that the circuit court complied with its obligations as set forth in WIS. STAT. § 971.08, *State v. Bangert*, 131 Wis. 2d 246, 261-62, 389 N.W.2d 12 (1986), and *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906, for ensuring the defendant is entering knowing, intelligent and voluntary pleas. We therefore

agree with appellate counsel's analysis in the no-merit report and his conclusion that there is no arguably meritorious basis for challenging Littlejohn's pleas.

The second potential issue appellate counsel discusses is whether there would be any arguable merit to appealing Littlejohn's sentence. Sentencing is committed to the circuit court's discretion. *See State v. Gallion*, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197. At sentencing, a court must consider the principal objectives of sentencing, including the protection of the community, the punishment and rehabilitation of the defendant, and deterrence to others, *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76, and determine which objective or objectives are of greatest importance, *see Gallion*, 270 Wis. 2d 535, ¶41. In seeking to fulfill the sentencing objectives, the court should consider several primary factors, including the gravity of the offense, the character of the offender, and the protection of the public, and may consider several additional factors. *See State v. Odom*, 2006 WI App 145, ¶7, 294 Wis. 2d 844, 720 N.W.2d 695. The weight to be given to each factor is committed to the circuit court's discretion. *See id.*

Our review of the record confirms that the court appropriately considered relevant sentencing objectives and factors. The fifteen-year sentence imposed is well within the forty-three-and-one-half-year range that Littlejohn faced, *see State v. Scaccio*, 2000 WI App 265, ¶18, 240 Wis. 2d 95, 622 N.W.2d 449, and is not so excessive so as to shock the public's sentiment. *See Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). We therefore agree with appellate counsel's analysis in the no-merit report and his conclusion that there is no arguably meritorious basis on which to challenge Littlejohn's sentence.

Our independent review of the record reveals no other potential issues of arguable merit.

Upon the foregoing, therefore,

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

IT IS FURTHER ORDERED that Attorney Dustin C. Haskell is relieved of further representation of Littlejohn 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