



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](http://www.wicourts.gov)

**DISTRICT I**

June 2, 2020

To:

Hon. David L. Borowski  
Circuit Court Judge  
Milwaukee County Courthouse  
901 N. 9th St.  
Milwaukee, WI 53233

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

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

Christopher D. Sobic  
Assistant State Public Defender  
735 N. Water St., Ste. 912  
Milwaukee, WI 53202-4116

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

Maura Lene Rhodes 289222  
Taycheedah Correctional Inst.  
P.O. Box 3100  
Fond du Lac, WI 54936-3100

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

---

2019AP484-CRNM      State of Wisconsin v. Maura Lene Rhodes (L.C. # 2017CF3757)

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).**

Maura Lene Rhodes appeals from a judgment, entered upon her guilty plea, convicting her on one count of second-degree reckless homicide while armed with a dangerous weapon. Appellate counsel, Christopher D. Sobic, has filed a no-merit report, pursuant to *Anders v.*

*California*, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32 (2017-18).<sup>1</sup> Rhodes was advised of her right to file a response, but she has not responded. Upon this court’s independent review of the record, as mandated by *Anders*, and counsel’s report, we conclude there are no issues of arguable merit that could be pursued on appeal. We therefore summarily affirm the judgment.

Milwaukee Police responded to a 911 call of a stabbing. They arrived at a convenience store to find the victim lying in a parking lot, covered in blood. Officers observed a large laceration on the victim’s right biceps, so they applied a tourniquet and pressure. While tending to the victim, officers also noted Rhodes standing nearby. She yelled, “He pulled a knife out on me and tried to stab me, so I cut him!” Rhodes, however, did not appear to have any wounds or injuries, and there was a bloody folding knife on the ground. The victim was transported to the hospital, where he died. According to the criminal complaint, the medical examiner determined that the cut to the biceps had severed a major blood vessel in the arm, which evidently caused the victim to die from blood loss.

Police interviewed the eyewitness who had called 911. He had been doing repairs on a roof across the street. He saw Rhodes and the victim in a heated argument, then saw the victim bleeding and clutching his right arm. The witness called 911 and noted that the victim fell to the ground and appeared to be unconscious. The witness said that Rhodes then walked over to the victim’s body and poured a can of beer on him before she rifled through his pockets.

Police also reviewed a surveillance video from the convenience store. It showed Rhodes standing face to face with the victim; she then slashed at the victim with her right hand and arm.

---

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

The victim clutched his own arm and staggered toward the parking lot as Rhodes walked back to the sidewalk and drank from a beer can. The video did not show the victim being physically aggressive or threatening toward Rhodes.

Rhodes was charged with one count of first-degree reckless homicide with a dangerous weapon. Her attorney raised a competency concern, so the circuit court ordered that Rhodes be evaluated for competency.<sup>2</sup> Following a hearing at which the evaluating psychologist testified, the circuit court made factual findings and concluded that Rhodes was competent to proceed. Rhodes then entered a special plea of not guilty by reason of mental disease or defect (NGI). The circuit court ordered Rhodes to be evaluated for that plea. The appointed examiner, as well as an examiner retained by the defense, could not support the NGI plea, so Rhodes withdrew it.

Rhodes then agreed to resolve her case through a plea agreement in which she would enter a guilty plea to an amended charge of second-degree reckless homicide with a dangerous weapon. Both sides would be free to argue for the sentence they felt appropriate.<sup>3</sup> After a colloquy, the circuit court accepted Rhodes's plea and set the matter for sentencing. At sentencing, the circuit court imposed twelve years of initial confinement and eight years of extended supervision. Rhodes appeals.

Appellate counsel addresses three potential issues in the no-merit report. The first issue is whether the circuit court erred in determining that Rhodes was competent to stand trial.

---

<sup>2</sup> The Honorable Carolina Maria Stark presided over matters through acceptance of the plea. Due to judicial rotation and calendaring, sentencing was conducted by the Honorable David L. Borowski. We refer to Judge Stark as the circuit court and Judge Borowski as the sentencing court.

<sup>3</sup> We note that Rhodes had filed a pretrial motion in which she sought to suppress custodial statements made to police. The plea was entered before the circuit court ruled on the motion.

WISCONSIN STAT. § 971.13(1) prohibits the trial of incompetent defendants. “[I]f a defendant claims to be incompetent, the court shall find him [or her] incompetent to proceed unless the [S]tate can prove by the greater weight of the credible evidence that the defendant is competent[.]” *State v. Garfoot*, 207 Wis. 2d 214, 222, 558 N.W.2d 626 (1997). “A person is competent to proceed if: 1) he or she possesses sufficient present ability to consult with his or her lawyer with a reasonable degree of rational understanding, and 2) he or she possesses a rational as well as factual understanding of a proceeding against him or her.” *Id.* Mental illness alone does not necessarily make a person incompetent. *See State v. Byrge*, 2000 WI 101, ¶31, 237 Wis. 2d 197, 614 N.W.2d 477 (citation omitted). We review the circuit court’s determination of a defendant’s competency to stand trial under the clearly erroneous standard. *See Garfoot*, 207 Wis. 2d at 225.

The no-merit report appropriately analyzes this issue. The examining psychologist’s report noted Rhodes’s history with diagnoses of personality disorder, depressive disorder, bipolar disorder, posttraumatic stress disorder, schizophrenia, and schizoaffective disorder; however, the examiner’s report also noted that Rhodes had an understanding of her charges, the possible pleas, and the role of both defense counsel and the State. The psychologist’s testimony was consistent with her report, and no other witnesses testified. This is sufficient evidence from which the State could be said to have satisfied its evidentiary burden. We therefore agree with appellate counsel’s conclusion that there is no arguable merit to a claim that the circuit court erroneously exercised its discretion in finding Rhodes competent to proceed.

The second issue appellate counsel addresses is whether Rhodes’s plea was knowing, intelligent, and voluntary. *See State v. Bangert*, 131 Wis. 2d 246, 260, 389 N.W.2d 12 (1986). Our review of the record confirms that the circuit court complied with its obligations for taking

guilty pleas, pursuant to WIS. STAT. § 971.08, *Bangert*, 131 Wis. 2d at 261-62, and *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906. In particular, we note that a printout of the jury instructions for second-degree reckless homicide and the dangerous weapon enhancer were submitted to the circuit court with the elements annotated for the particulars of this case and initialed by Rhodes. The no-merit report appropriately analyzes this issue, and we agree with appellate counsel's conclusion that there is no arguable merit to a claim that Rhodes's plea was anything other than knowing, intelligent, and voluntary.

The final issue that appellate counsel addresses is whether the sentencing court erroneously exercised its sentencing discretion. See *State v. Gallion*, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197. Our review of the record confirms that the sentencing court appropriately considered relevant sentencing objectives and factors. See *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76; *State v. Odom*, 2006 WI App 145, ¶7, 294 Wis. 2d 844, 720 N.W.2d 695. The twenty-year sentence imposed is well within the thirty-year range authorized by law, 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). The no-merit report properly analyzes this issue as well, and we agree with appellate counsel's conclusion that there would be no arguable merit to challenging the sentencing court's exercise of its sentencing discretion.

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 Christopher D. Sobic is relieved of further representation of Rhodes 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*