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DISTRICT II

June 17, 2020

To:

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

2019AP1059-CRNM State of Wisconsin v. Matthew S. Poyner (L.C. #2017CF912)

Before Neubauer, C.J., Reilly, P.J., and Gundrum, J.

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).

Matthew S. Poyner appeals from a judgment convicting him of second-degree reckless homicide as party to the crime contrary to WIS. STAT. § 940.06(1) (2017-18).¹ Poyner's appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 and *Anders v.*

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

California, 386 U.S. 738 (1967). Poyner received a copy of the report and was advised of his right to file a response. He has not done so. Upon consideration of the report and an independent review of the record as mandated by *Anders* and RULE 809.32, we summarily affirm the judgment because there are no issues that would have arguable merit for appeal. WIS. STAT. RULE 809.21.

The circuit court sentenced Poyner to a sixteen and one-half-year term (six and one-half years of initial confinement and ten years of extended supervision). Poyner received sentence credit.

The no-merit report addresses the following possible appellate issues: (1) whether Poyner's guilty plea was knowingly, voluntarily, and intelligently entered; and (2) whether the circuit court misused its sentencing discretion. After reviewing the record, we conclude that counsel's no-merit report properly analyzes these issues and correctly determines that these issues lack arguable merit.

The plea colloquy complied with *State v. Hoppe*, 2009 WI 41, ¶18, 317 Wis. 2d 161, 765 N.W.2d 794. The colloquy was thorough and informed Poyner of each of the constitutional rights waived by his plea. “[A] guilty plea waives all nonjurisdictional defects and defenses.” *State v. Popp*, 2014 WI App 100, ¶13, 357 Wis. 2d 696, 855 N.W.2d 471 (citation omitted).

The circuit court also engaged in a proper exercise of sentencing discretion after considering various sentencing factors. *State v. Gallion*, 2004 WI 42, ¶76, 270 Wis. 2d 535, 678 N.W.2d 197 (we review the sentence for a misuse of discretion); *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76 (sentencing factors discussed).

In addition to the issues discussed above, we have independently reviewed the record. Our independent review of the record did not disclose any arguably meritorious issue for appeal. Because we conclude that there would be no arguable merit to any issue that could be raised on appeal, we accept the no-merit report, affirm the judgment of conviction and relieve Attorney Mark Rosen of further representation of Poyner in this matter.

Upon the foregoing reasons,

IT IS ORDERED that the judgment of the circuit court is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Mark Rosen is relieved of further representation of Matthew S. Poyner in this matter.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Sheila T. Reiff
Clerk of Court of Appeals