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DISTRICT IV

January 21, 2021

To:

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

2019AP904-CRNM State of Wisconsin v. Terry Lorenzo Weston (L.C. # 2016CF2391)

Before Blanchard, Kloppenburg, and Graham, 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 Herbert, appointed counsel for Terry Weston, has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2017-18)¹ and *Anders v. California*, 386 U.S. 738 (1967). Counsel provided Weston with a copy of the report, and both counsel and this court

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

advised him of his right to file a response. Weston has not responded. We conclude that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. After our independent review of the record, we conclude there is no arguable merit to any issue that could be raised on appeal.

After a jury trial, Weston was convicted of one misdemeanor count of resisting a traffic officer and one felony count of bail jumping. The circuit court imposed a sentence on the felony count of 14 months of initial confinement and two years of extended supervision, and a lesser concurrent sentence on the resisting count.

The no-merit report addresses whether the evidence was sufficient to support the convictions. We affirm the convictions unless the evidence, viewed most favorably to the State and the conviction, is so insufficient in probative value and force that no reasonable trier of fact could have found guilt beyond a reasonable doubt. *State v. Poellinger*, 153 Wis. 2d 493, 501, 451 N.W.2d 752 (1990). Credibility of witnesses is for the trier of fact. *Id.* at 504.

Without attempting to recite the evidence in detail here, the fleeing conviction was supported by the testimony of the officer who pulled over the vehicle Weston was driving and by the video recording made from the officer's vehicle. The bail-jumping charge was supported by the same evidence, together with evidence about Weston's earlier release on bail. There is no arguable merit to this issue.

The no-merit report addresses whether the circuit court erred by denying Weston's request for appointment of new counsel. In denying the motion, the court noted that this would be Weston's third attorney, that the request was made on the last business day before the trial was to begin, and that the disagreement between Weston and his attorney did not appear to be so

great as to prevent an adequate defense or fair presentation of the case. There is no arguable merit to a claim that the court erroneously exercised its discretion.

The no-merit report addresses whether the circuit court erroneously exercised its sentencing discretion. The sentences are within the legal maximums. The standards for the circuit court and this court on discretionary sentencing issues are well established and need not be repeated here. *See State v. Gallion*, 2004 WI 42, ¶¶17-51, 270 Wis. 2d 535, 678 N.W.2d 197. In this case, the circuit court considered appropriate factors, did not consider improper factors, and reached a reasonable result. There is no arguable merit to this issue.

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

Therefore,

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

IT IS FURTHER ORDERED that Attorney Herbert is relieved of further representation of Weston 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