



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 II

February 3, 2021

To:

Hon. Jeffrey S. Froehlich
Circuit Court Judge
Calumet County Courthouse
206 Court St.
Chilton, WI 53014

Connie Daun
Clerk of Circuit Court
Calumet County Courthouse
206 Court St.
Chilton, WI 53014

Daniel Goggin II
Goggin & Goggin
P.O. Box 646
Neenah, WI 54957-0646

Nathan F. Haberman
District Attorney
206 Court St.
Chilton, WI 53014

Tammy L. Bleau
P.O. Box 331
Kiel, WI 53042

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

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

2020AP383-CRNM State of Wisconsin v. Tammy L. Bleau (L.C. #2017CM236)

Before Gundrum, J.¹

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).

Tammy L. Bleau appeals from a judgment convicting her of three counts of fraud against a financial institution. Her appellate counsel filed a no-merit report pursuant to WIS. STAT.

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(f) (2017-18). All references to the Wisconsin Statutes are to the 2017-18 version.

RULE 809.32 and *Anders v. California*, 386 U.S. 738 (1967). Bleau filed a response. Counsel then filed a supplemental no-merit report. After reviewing the record, counsel's reports, and Bleau's response, we conclude that there are no issues with arguable merit for appeal. Therefore, we summarily affirm the judgment. See WIS. STAT. RULE 809.21.

Bleau was convicted following a jury trial of three counts of fraud against a financial institution. She was accused of obtaining money from a credit union via a series of false deposits from a closed bank account. For her actions, the circuit court imposed an aggregate sentence of thirty days in jail along with \$1,994.18 in restitution. This no-merit appeal follows.

The no-merit report addresses whether the evidence at Bleau's jury trial was sufficient to support her convictions. When reviewing the sufficiency of the evidence, we may not substitute our judgment for that of the jury "unless the evidence, viewed most favorably to the state and the conviction, is so lacking in probative value and force that no trier of fact, acting reasonably, could have found guilt beyond a reasonable doubt." *State v. Poellinger*, 153 Wis. 2d 493, 507, 451 N.W.2d 752 (1990). Our review of the trial transcript persuades us that the State produced ample evidence to convict Bleau of her crimes. That evidence included testimony from the president of the credit union in question and records of the transactions. We agree with counsel that a challenge to the sufficiency of the evidence would lack arguable merit.

The no-merit report also addresses whether the circuit court properly exercised its discretion at sentencing. The record reveals that the court's sentencing decision had a "rational and explainable basis." *State v. Gallion*, 2004 WI 42, ¶76, 270 Wis. 2d 535, 678 N.W.2d 197 (citation omitted). Moreover, the sentence imposed does not "shock public sentiment and violate the judgment of reasonable people concerning what is right and proper under the circumstances."

Ocanas v. State, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). We agree with counsel that a challenge to Bleau’s sentence would lack arguable merit.

As noted, Bleau filed a response to the no-merit report. In it, she appears to accuse her trial counsel of (1) failing to show the jury that there was an innocent explanation for her transactions; (2) failing to impeach the president of the credit union; (3) refusing to allow her to testify; and (4) refusing to request a bench trial. She also accuses the prosecutor of misconduct.

We are not persuaded Bleau’s response presents an issue of arguable merit. As explained in the supplemental no-merit report, Bleau’s first three accusations against trial counsel are belied by the record. Meanwhile, there is no record support for Bleau’s conclusory assertion that she wanted a bench trial, and, indeed, her trial counsel flatly refutes it.² Likewise, there is no record support for Bleau’s conclusory claim of prosecutorial misconduct.

Our independent review of the record—including jury selection, jury instructions, Bleau’s waiver of her right to testify, and opening statements/closing arguments—does not disclose any potentially 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 and relieve Attorney Daniel Goggin, II, of further representation in this matter.

² Appointed counsel did contact trial counsel to inquire about this issue. According to the affidavit included in the supplemental no-merit report, trial counsel discussed with Bleau the options of a jury trial and a bench trial. Trial counsel explained the advantages and disadvantages of each option, expressed an opinion as to why a jury trial was a better choice, and Bleau opted for a jury trial. At no time did Bleau ever insist on a bench trial.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Daniel Goggin, II, is relieved of further representation of Tammy L. Bleau in this matter.

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

Sheila T. Reiff
Clerk of Court of Appeals