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DISTRICT I

February 23, 2021

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

2020AP1203-CRNM State of Wisconsin v. Edward Over III (L.C. # 2018CF5823)

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

Edward Over III appeals a judgment convicting him of one count of repeated sexual assault of the same child and one count of second-degree sexual assault. Attorney Marcelle DePeters filed a no-merit report. *See* WIS. STAT. RULE 809.32 (2017-18),¹ and *Anders v.*

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

California, 386 U.S. 738, 744 (1967). Over responded to the report. After considering the no-merit report and the response, and after conducting an independent review of the record as mandated by *Anders*, we conclude that there are no issues of arguable merit that Over could raise on appeal. Therefore, we affirm. See WIS. STAT. RULE 809.21.

The no-merit report addresses whether Over’s guilty pleas were knowingly, intelligently, and voluntarily entered. In order to ensure that a defendant is knowingly, intelligently, and voluntarily waiving the right to trial by entering a guilty plea, the circuit court must conduct a colloquy with the defendant to ascertain whether the defendant understands the elements of the crimes to which he is pleading guilty, the constitutional rights he is waiving by entering the plea, and the maximum potential penalties that could be imposed. See WIS. STAT. § 971.08; *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906. A plea questionnaire and waiver-of-rights form that the defendant has acknowledged reviewing and understanding may reduce “the extent and degree of the colloquy otherwise required between the trial court and the defendant.” *State v. Hoppe*, 2009 WI 41, ¶42, 317 Wis. 2d 161, 765 N.W.2d 794 (citation omitted). Based on the circuit court’s thorough plea colloquy with Over and Over’s review of the plea questionnaire and waiver-of-rights form with his counsel, we conclude that there would be no arguable merit to an appellate challenge to his pleas.

The no-merit report addresses whether there would be arguable merit to a claim that the circuit court erroneously exercised its discretion when it sentenced Over to a total of twenty years of initial confinement and ten years of extended supervision for the two crimes. The circuit court considered appropriate factors in deciding the length of the sentence to impose and explained its decision in accordance with the framework set forth in *State v. Gallion*, 2004 WI

42, ¶¶39-46, 270 Wis. 2d 535, 678 N.W.2d 197. Therefore, there would be no arguable merit to an appellate challenge to the sentence.

In his response, Over discusses information about his relationship with his wife. The response presents no information that has legal significance as it pertains to Over's crimes and provides no basis for overturning Over's convictions.

Our independent review of the record also reveals no arguable basis for reversing the judgment of conviction. Therefore, we affirm the judgment.

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 Marcella DePeters is relieved of any further representation of Edward Over III 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