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DISTRICT IV

June 10, 2021

To:

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

2019AP2338-CRNM State of Wisconsin v. Lyle C. Adams (L.C. # 2017CF137)

Before Fitzpatrick, P.J., Kloppenburg, and Nashold, 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 Colleen Marion, appointed counsel for Lyle Adams, has filed a no-merit report seeking to withdraw as appellate counsel pursuant to WIS. STAT. RULE 809.32 (2019-20)¹ and *Anders v. California*, 386 U.S. 738 (1967). Adams was sent a copy of the report and has not

¹ All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

filed a response. Upon consideration of the report and an independent review of the record, we conclude that there is no arguable merit to any issue that could be raised on appeal. Accordingly, we affirm.

Adams was charged with two counts of operating a motor vehicle with a restricted controlled substance in his blood, in violation of WIS. STAT. § 346.63(1)(am) (2015-16), both as a fifth or sixth offense. The two counts arose out of the same incident, with one count based on the presence of methamphetamine and the other count based on the presence of Delta-9 THC. The case proceeded to a jury trial, and the jury found Adams guilty on both counts. The circuit court entered a judgment of conviction on the methamphetamine-based count and dismissed the THC-based count.² The court imposed four years of probation along with the statutory minimum penalties of six months' jail time and a \$600 fine.³ See WIS. STAT. § 346.65(2)(am)5.

The no-merit report addresses whether there is arguable merit to challenging the sufficiency of the evidence. We agree with counsel that there is no arguable merit to this issue. We will not overturn a conviction “unless the evidence, viewed most favorably to the state and the conviction, is so insufficient in probative value and force that it can be said as a matter of law that no trier of fact, acting reasonably, could have found guilt beyond a reasonable doubt.” See *State v. Poellinger*, 153 Wis. 2d 493, 501, 451 N.W.2d 752 (1990). Without reciting all of the evidence here, we are satisfied that it was sufficient.

² See WIS. STAT. § 346.63 (2015-16) (“If the person is found guilty of any combination of par. (a), (am), or (b) for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing”).

³ An amended judgment of conviction indicates that jail time was later stayed or suspended due to medical emergency.

The no-merit report also addresses whether there is arguable merit to pursuing issues related to jury selection, the circuit court's evidentiary rulings, Adams' decision to testify, the jury instructions, or sentencing. We are satisfied that the no-merit report properly analyzes each of these issues as having no arguable merit.

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

Therefore,

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

IT IS FURTHER ORDERED that Attorney Colleen Marion is relieved of any further representation of Lyle Adams 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