

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 IV

June 17, 2021

To:

Hon. Barbara W. McCrory Circuit Court Judge Courthouse 51 S. Main St. - 5th Fl. Janesville, WI 53545-3978

Jacki Gackstatter Clerk of Circuit Court Rock County Courthouse 51 S. Main St. Janesville, WI 53545

Frances Philomene Colbert Assistant State Public Defender P.O. Box 7862 Madison, WI 53707-7862 David J. O'Leary District Attorney 51 S. Main St. Janesville, WI 53545-3951

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

Dakeece Shyheed Miller-Ricks 596184 Fox Lake Correctional Inst. P.O. Box 200 Fox Lake, WI 53933-0200

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

2019AP2196-CRNM State of Wisconsin v. Dakeece Shyheed Miller-Ricks (L.C. # 2018CF122)

Before Blanchard, 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 Frances Philomene Colbert, appointed counsel for Dakeece Shyheed Miller-Ricks, has filed a no-merit report pursuant to Wis. STAT. RULE 809.32 (2019-20)¹ and *Anders v*.

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

California, 386 U.S. 738 (1967). Counsel provided Miller-Ricks with a copy of the report, and both counsel and this court advised him of his right to file a response. Miller-Ricks 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.

Miller-Ricks pleaded guilty to two counts of delivery of cocaine. The circuit court imposed concurrent sentences, with the controlling sentence being for five years of initial confinement and four years of extended supervision.

The no-merit report addresses whether Miller-Ricks' pleas were entered knowingly, voluntarily, and intelligently. The plea colloquy sufficiently complied with the requirements of *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906, and WIS. STAT. § 971.08, relating to the nature of the charge, the rights Miller-Ricks was waiving, and other matters. The record shows no other ground to withdraw the plea. There is no arguable merit to this issue.

The no-merit report addresses whether the sentence is within the legal maximum and whether the circuit court erroneously exercised its sentencing discretion. The sentence is within the maximum. The standards for the circuit court and this court on sentencing discretion 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 court considered appropriate factors, did not consider improper factors, and reached a reasonable result. There is no arguable merit to this issue.

The no-merit report notes Miller-Ricks' concern that the sentencing court may have believed that he was selling heroin in addition to cocaine, and that this allegation is not accurate.

No. 2019AP2196-CRNM

It is not entirely clear from the transcript whether the court thought this was true. However, the

no-merit report is correct in asserting that there is no basis to argue that the court relied on that

allegation in sentencing.

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 Colbert is relieved of further representation

of Miller-Ricks 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

3