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DISTRICT IV

July 8, 2021

To:

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Circuit Court Judge
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Laura M. Force
Assistant State Public Defender
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You are hereby notified that the Court has entered the following opinion and order:

2020AP1583-CRNM State of Wisconsin v. Shane J. Korslin (L.C. # 2018CF658)

Before Fitzpatrick, P.J., Graham, 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).

Attorneys Laura Force and Jeremy Newman, appointed counsel for Shane Korslin, have filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2019-20)¹ and *Anders v. California*, 386 U.S. 738, 744 (1967). The no-merit report addresses:

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

the sufficiency of the evidence to support the jury verdict; the circuit court's decision sustaining the State's objection to Korslin's testimony as to prior events involving the victim and the victim's mental health; and sentencing. Korslin was provided a copy of the report but has not filed a response. Upon independently reviewing the entire record, as well as the no-merit report, we agree with counsel's assessment that there are no arguably meritorious appellate issues. Accordingly, we affirm.

Korslin was convicted following a jury trial of second degree sexual assault as domestic abuse. The court sentenced Korslin to three years of initial confinement and two years of extended supervision.

The no-merit report addresses whether the evidence was sufficient to support the jury verdict. A claim of insufficiency of the evidence requires a showing that "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." *State v. Poellinger*, 153 Wis. 2d 493, 501, 451 N.W.2d 752 (1990). We agree with counsel's assessment that there would be no arguable merit to an argument that that standard has been met here. The evidence at trial, including testimony by the victim, if deemed credible by the jury, was sufficient to support the verdict.

The no-merit report also addresses whether there would be arguable merit to further proceedings based on the circuit court sustaining the State's objection to Korslin's testimony as to a prior event involving the victim and her mental health. We are satisfied that the no-merit report adequately addresses why this potential issue lacks arguable merit, and we do not address it further.

Finally, the no-merit report addresses whether there would be arguable merit to a challenge to the sentence imposed by the circuit court. We conclude that this issue lacks arguable merit. This court’s review of a sentence determination begins “with the presumption that the trial court acted reasonably, and the defendant must show some unreasonable or unjustifiable basis in the record for the sentence complained of.” *State v. Krueger*, 119 Wis. 2d 327, 336, 351 N.W.2d 738 (Ct. App. 1984). Here, the court explained that it considered facts pertinent to the standard sentencing factors and objectives, including the gravity of the offense, Korslin’s character and criminal history, and the need to protect the public. See *State v. Gallion*, 2004 WI 42, ¶¶39-46 & n.11, 270 Wis. 2d 535, 678 N.W.2d 197. The court imposed three years of initial confinement and two years of extended supervision. The sentence was within the maximum Korslin faced and, given the facts of this case, there would be no arguable merit to a claim that the sentence was unduly harsh or excessive. See *State v. Stenzel*, 2004 WI App 181, ¶21, 276 Wis. 2d 224, 688 N.W.2d 20 (stating that a sentence is unduly harsh or excessive “only where the sentence is so excessive and unusual and so disproportionate to the offense committed as to shock public sentiment and violate the judgment of reasonable people concerning what is right and proper under the circumstances” (citation omitted)). The circuit court granted Korslin 27 days of sentence credit, on counsel’s stipulation. We discern no arguable merit to a challenge to the circuit court’s sentencing decision.

IT IS ORDERED that the judgment of conviction is affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorneys Laura Force and Jeremy Newman are relieved of any further representation of Shane Korslin 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