

upon inaccurate information, he was retaliated against for pursuing a successful appeal, and his trial counsel and appellate counsel both provided ineffective assistance. Counsel filed a supplemental no-merit brief addressing Finley's claims, to which Finley filed an additional response. Having independently reviewed the entire record as mandated by *Anders v. California*, 386 U.S. 738, 744 (1967), we conclude that there are no issues of arguable merit and, therefore, counsel will be allowed to withdraw and the judgment of conviction will be summarily affirmed. *See* WIS. STAT. RULE 809.21.

An Information charged Finley with first-degree reckless endangerment by use of a dangerous weapon, substantial battery, strangulation and false imprisonment, each had domestic abuse and repeat offender enhancers. The charges were based upon allegations that Finley strangled his girlfriend, held a knife to her throat, and repeatedly punched and cut her over a period of about five hours. Finley initially pleaded no contest to the reckless endangerment charge, but he withdrew that plea following a successful appeal.

Finley subsequently pleaded guilty to the substantial battery and strangulation counts. In exchange the State recommended dismissal of the other two counts as read-in offenses. The circuit court accepted the pleas after reviewing a plea questionnaire and waiver of rights form submitted by Finley and conducting a thorough plea colloquy. Finley does not allege that he misunderstood the nature of the charges or any of the rights that he was waiving at his second plea hearing. We conclude any challenge to Finley's pleas would lack arguable merit.

The circuit court subsequently sentenced Finley to consecutive terms of five and one-half years' initial confinement followed by two years' extended supervision on the substantial battery count and seven years' initial confinement followed by three years' extended supervision on the

strangulation count. Finley first contends the court relied upon inaccurate information as to the number of his prior convictions. However, the court's statement that Finley had between six and twelve convictions was supported by Finley's own prior testimony that he had six prior convictions and by CCAP records showing that he had twelve prior convictions.

Finley next asserts that the State and circuit court retaliated against him, respectively, by seeking a harsher punishment and imposing longer sentences following Finley's successful appeal. However, the State did not add new charges to the Information following the appeal, and it offered Finley a new plea deal on two counts that were lower-level felonies than the original conviction. Moreover, Finley's cumulative sentences on the substantial battery and strangulation counts were less than his vacated sentence on the reckless endangerment count. In short, there is no arguable basis for a retaliation claim.

Finally, Finley argues that his trial counsel should have: (1) investigated and challenged the victim's description of the extent of her injuries; (2) advised the circuit court that Finley suffers from post-traumatic stress disorder; and (3) challenged information in the presentence investigation report (PSI) about Finley's past history of violence toward women. We agree with counsel's analysis, however, concluding that Finley waived any right to challenge the facts supporting the charges by entering his pleas; counsel did not perform deficiently by failing to mention Finley's post-traumatic stress disorder when it was discussed in the PSI; and the PSI author appropriately included the allegations against Finley about past abuse, even if Finley disputed them.

Our independent review of the record discloses no other potential issues for appeal. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders*.

Upon the foregoing,

IT IS ORDERED that the judgment is summarily affirmed. WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that attorney Bradley Lochowicz is relieved of his obligation to further represent Timothy L. Finley, Jr., 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