



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 II

September 1, 2021

To:

Hon. Kent R. Hoffmann
Circuit Court Judge
Electronic Notice

Melody Lorge
Clerk of Circuit Court
Sheboygan County
Electronic Notice

Winn S. Collins
Electronic Notice

Michael J. Herbert
Electronic Notice

Joel Urmanski
District Attorney
Electronic Notice

Tyrone Richardson, #265292
Stanley Correctional Inst.
100 Corrections Dr.
Stanley, WI 54768

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

2019AP2298-CRNM State of Wisconsin v. Tyrone Richardson (L.C. #2018CF392)

Before Neubauer, Reilly and Grogan, 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).

Tyrone Richardson appeals from a judgment convicting him of substantial battery contrary to WIS. STAT. § 940.19(2) (2017-18)¹ and strangulation and suffocation contrary to WIS. STAT. § 940.235(2), both as domestic abuse and as a repeat offender. Richardson's appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2019-20) and *Anders v. California*, 386 U.S. 738 (1967). Richardson received a copy of the report and was advised of

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

his right to file a response. He has not done so. Upon consideration of the report and an independent review of the record as mandated by *Anders* and RULE 809.32, we summarily affirm the judgment because there are no issues that would have arguable merit for appeal. WIS. STAT. RULE 809.21 (2019-20).

For the substantial battery, the circuit court sentenced Richardson to an enhanced four-year sentence (two years of initial confinement and two years of extended supervision). For the strangulation and suffocation, the circuit court imposed a consecutive term of ten years (five years of initial confinement and five years of extended supervision). The circuit court properly imposed DNA surcharges for these felony convictions. WIS. STAT. § 973.046(1r)(a).² Richardson received sentence credit.

The no-merit report addresses the following possible appellate issues: (1) whether Richardson's no contest pleas were knowingly, voluntarily, and intelligently entered; (2) whether the circuit court misused its sentencing discretion; and (3) whether the circuit court erred when it denied trial counsel's motion to withdraw.³ After reviewing the record, we conclude that counsel's no-merit report properly analyzes these issues and correctly determines that these issues lack arguable merit.

The very thorough plea colloquy complied with *State v. Hoppe*, 2009 WI 41, ¶18, 317 Wis. 2d 161, 765 N.W.2d 794. Richardson's no contest pleas waived all nonjurisdictional defects

² The no-merit report does not mention the DNA surcharges. However, we have concluded that any challenge to the DNA surcharges would lack arguable merit for appeal.

³ Any challenge to the circuit court's denial of counsel's motion to withdraw was waived by Richardson's no contest pleas. See *State v. Lasky*, 2002 WI App 126, ¶11, 254 Wis. 2d 789, 646 N.W.2d 53 (a no contest plea waives all nonjurisdictional defects and defenses).

and defenses. *State v. Lasky*, 2002 WI App 126, ¶11, 254 Wis. 2d 789, 646 N.W.2d 53. Any challenge to the entry of Richardson’s no contest pleas would lack arguable merit for appeal.

The circuit court engaged in a proper exercise of sentencing discretion after considering various sentencing factors. *State v. Gallion*, 2004 WI 42, ¶76, 270 Wis. 2d 535, 678 N.W.2d 197 (we review the sentence for a misuse of discretion); *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76 (sentencing objectives and factors discussed). During the plea colloquy, Richardson admitted his repeater status arising from prior convictions, and the circuit court properly imposed an enhanced sentence for substantial battery. There would be no arguable merit to a challenge to the sentences.

In addition to the issues discussed above, we have independently reviewed the record. Our independent review of the record did not disclose any arguably meritorious issue for appeal. Because we conclude that there would be no arguable merit to any issue that could be raised on appeal, we accept the no-merit report, affirm the judgment of conviction, and relieve Attorney Michael J. Herbert of further representation of Tyrone Richardson in this matter.

Upon the foregoing reasons,

IT IS ORDERED that the judgment of the circuit court is summarily affirmed pursuant to WIS. STAT. RULE 809.21 (2019-20).

IT IS FURTHER ORDERED that Attorney Michael J. Herbert is relieved of further representation of Tyrone Richardson in this matter.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Sheila T. Reiff
Clerk of Court of Appeals