



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

September 30, 2021

To:

Hon. Todd J. Hepler
Circuit Court Judge
Electronic Notice

Susan K. Raimer
Clerk of Circuit Court
Columbia County Courthouse
Electronic Notice

Crystal N. Long
Electronic Notice

John P. Mueller
Electronic Notice

Dean Briggs 288263
Redgranite Correctional Inst.
P.O. Box 925
Redgranite, WI 54970-0925

Winn Collins
Electronic Notice

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

2019AP2400-CRNM	State of Wisconsin v. Dean Briggs (L.C. # 2017CF319)
2019AP2401-CRNM	State of Wisconsin v. Dean Briggs (L.C. # 2018CF110)
2019AP2402-CRNM	State of Wisconsin v. Dean Briggs (L.C. # 2017CF349)

Before Blanchard, 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).

Attorney John Mueller, appointed counsel for Dean Briggs, has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2019-20)¹ and *Anders v. California*, 386 U.S. 738 (1967). Counsel provided Briggs with a copy of the report, and both counsel and this court advised him of his right to file a response. Briggs has not responded. We conclude that these cases are

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

appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. After our independent review of the records, we conclude that there is no arguable merit to any issue that could be raised on appeal.

In 2018, in each of the three cases underlying these appeals, Briggs pled no contest to one felony count of bail jumping. The court withheld sentences and placed Briggs on probation. His probation was later revoked, and Briggs was returned to the court for sentencing. The court then imposed three consecutive sentences of one year of initial confinement and one year of extended supervision.

Briggs filed a postconviction motion requesting sentence modification due to a new factor. He argued that the parties and the sentencing court had overlooked the fact that the Department of Corrections recommended concurrent sentences, and that they did so because that recommendation was in a cover letter, not in the revocation warrant itself. The court denied the motion.

The no-merit report asserts that there is no arguable merit to an appeal from the denial of the postconviction motion. It reaches that conclusion because the circuit court stated that it had not overlooked the concurrent recommendation and, even if it had, the court was satisfied with its consecutive sentences. We agree that the record does not show an arguable basis to appeal this ruling.

Beyond that, the no-merit report addresses whether the sentencing court otherwise erroneously exercised its sentencing discretion. Because no argument to that effect was preserved by inclusion in the postconviction motion, that issue would not be available to raise in

this appeal. Therefore, we consider whether there is an additional sentencing issue that could have been raised in the postconviction motion, but was not.

The standards for the circuit court and this court on sentencing issues 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.

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

Therefore,

IT IS ORDERED that the judgments of conviction and order denying postconviction relief are summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Mueller is relieved of further representation of Briggs 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