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DISTRICT I

October 12, 2021

To:

Hon. Joseph R. Wall
Circuit Court Judge
Electronic Notice

John Barrett
Clerk of Circuit Court
Milwaukee County Courthouse
Electronic Notice

Carl W. Chesshir
Electronic Notice

Winn S. Collins
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John D. Flynn
Electronic Notice

Javon Kerry Harrison 602528
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:

2021AP539-CRNM State of Wisconsin v. Javon Kerry Harrison
(L.C. # 2019CF2709)

Before Brash, C.J., Donald, P.J., and Dugan, J.

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).

Javon Kerry Harrison appeals a judgment convicting him of first-degree reckless homicide, as a party to a crime. Attorney Carl W. Chesshir, who was appointed to represent Harrison, filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2019-20);¹ *Anders v. California*, 386 U.S. 738, 744 (1967). Harrison was advised of his right to respond, but he has not done so. After considering the no-merit report and conducting an

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

independent review of the record as mandated by *Anders*, we conclude that there are no issues of arguable merit that Harrison could raise on appeal. Therefore, we summarily affirm the judgment of conviction. *See* WIS. STAT. RULE 809.21.

Harrison supplied heroin to the victim, who died from an overdose. Three separate felony cases and three criminal traffic cases were resolved by plea agreement. Harrison pled guilty to one count of first-degree reckless homicide in this case. The other cases were dismissed and the charges were read-in for sentencing.

The no-merit report first addresses whether there would be arguable merit to a claim that Harrison's guilty plea was not knowingly, intelligently, and voluntarily entered. Before accepting a plea, the circuit court must conduct a colloquy with a defendant to ascertain that the defendant understands the elements of the crime to which he is pleading guilty, the constitutional rights he is waiving by entering the plea, and the maximum potential penalties that could be imposed. *See* WIS. STAT. § 971.08; *State v. Bangert*, 131 Wis. 2d 246, 260, 265-66, 389 N.W.2d 12 (1986). The circuit court must address several items with the defendant during the colloquy in an effort to ensure that the defendant is knowingly, intelligently, and voluntarily waiving the rights he is giving up by entering a plea. *See State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906. As part of its inquiry, the circuit court may refer to a plea colloquy and waiver-of-rights form, which the defendant has acknowledged reviewing, reducing "the extent and degree of the colloquy otherwise required between the [circuit] court and the defendant..." *State v. Hoppe*, 2009 WI 41, ¶42, 317 Wis. 2d 161, 765 N.W.2d 794 (citation and quotation marks omitted).

The circuit court conducted a colloquy with Harrison that complied with WIS. STAT. § 971.08 and *Bangert*, 131 Wis. 2d at 266-72. Prior to the plea hearing, Harrison discussed information pertinent to entering his pleas with his trial counsel, and he reviewed a plea questionnaire and waiver of rights form with his trial counsel and signed it. See *State v. Moederndorfer*, 141 Wis. 2d 823, 827-28, 416 N.W.2d 627 (Ct. App. 1987) (stating that the circuit court may rely on a plea questionnaire and waiver of rights form in assessing the defendant's knowledge about the rights he or she is waiving). Harrison acknowledged that there was a factual basis to convict him of the crime. Based on the circuit court's thorough plea colloquy with Harrison, and Harrison's review of the plea questionnaire and waiver-of-rights form, there would be no arguable merit to an appellate challenge to Harrison's guilty plea.

The no-merit report next addresses whether there would be arguable merit to a claim that the circuit court erroneously exercised its sentencing discretion. The circuit court imposed ten years of initial confinement and ten years of extended supervision. The circuit court considered both Harrison's conviction in this case and the charges that were dismissed and read in. The record establishes that the circuit court considered the general objectives of sentencing and applied the sentencing factors to the facts of this case, reaching a reasoned and reasonable result. See *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76 (stating that the circuit court must identify the factors it considered and explain how those factors fit the sentencing objectives and influenced its sentencing decision). There would be no arguable merit to a challenge to the sentence.

Our independent review of the record also reveals no arguable basis for reversing the judgment of conviction. Therefore, we affirm the judgment and relieve Attorney Chesshir from further representation of Harrison.

IT IS ORDERED that the judgment of the circuit court is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Carl W. Chesshir is relieved of any further representation of Harrison 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