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DISTRICT IV

November 24, 2021

To:

Hon. Todd L. Ziegler
Circuit Court Judge
Electronic Notice

Shirley Chapiewsky
Clerk of Circuit Court
Monroe County Courthouse
Electronic Notice

Winn S. Collins
Electronic Notice

Danielle M. Kranz
Electronic Notice

Daniel P. Ryan
Electronic Notice

Crystal Ann Pharis 534420
P.O. Box 10
Winnebago, WI 54985

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

2020AP2156-CRNM	State of Wisconsin v. Crystal Ann Pharis (L.C. # 2018CF89)
2020AP2157-CRNM	State of Wisconsin v. Crystal Ann Pharis (L.C. # 2018CF90)
2020AP2158-CRNM	State of Wisconsin v. Crystal Ann Pharis (L.C. # 2018CF91)

Before Graham, J.¹

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 Daniel P. Ryan, appointed counsel for Crystal Ann Pharis, has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 and *Anders v. California*, 386 U.S. 738, 744 (1967). The no-merit report addresses whether there would be arguable merit to a challenge to Pharis's plea. Pharis was sent a copy of the report, but has not

¹ These appeals are decided by one judge pursuant to WIS. STAT. § 752.31(2)(f) (2019-20). All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

filed a response. Upon independently reviewing the entire record, as well as the no-merit report, I agree with counsel's assessment that there are no arguably meritorious appellate issues. Accordingly, I affirm.

Pharis was charged with multiple criminal offenses based on her conduct while she was held at the Monroe County Jail in May 2016. Pursuant to a plea agreement, Pharis pled no-contest to one count of criminal damage to property and three counts of disorderly conduct, and the remaining counts, plus additional charges in three other cases, were dismissed and read in for sentencing purposes.

The no-merit report addresses whether there would be arguable merit to a challenge to Pharis's plea. A post-sentencing motion for plea withdrawal must establish that plea withdrawal is necessary to correct a manifest injustice, such as a plea that was not knowing, intelligent, and voluntary. *State v. Brown*, 2006 WI 100, ¶18, 293 Wis. 2d 594, 716 N.W.2d 906. Here, the circuit court conducted a plea colloquy that, together with the plea questionnaire that Pharis signed, satisfied the court's mandatory duties to personally address Pharis and determine information such as Pharis's understanding of the nature of the charges and the range of punishments she faced, the constitutional rights she waived by entering a plea, and the direct consequences of the plea. *See State v. Hoppe*, 2009 WI 41, ¶¶18, 30, 317 Wis. 2d 161, 765 N.W.2d 794. There would be no arguable merit to a postconviction motion for plea withdrawal based on a claim of a defect in the plea colloquy. *See id.*, ¶7 (postconviction motion for plea withdrawal based on a defective plea colloquy must establish that the circuit court failed to comply with mandatory duties during colloquy).

The no-merit report notes that the record indicates that Pharis informed separate counsel, who was appointed to represent Pharis in revocation proceedings, that Pharis believed that she was entering pleas of not guilty by reason of mental disease or defect in these cases. No-merit counsel states that, based on his discussions with Pharis, he has concluded that Pharis would be unable to allege sufficient facts in a postconviction motion to seek plea withdrawal on this basis. *See id.* (defendant may seek plea withdrawal based on facts extrinsic to the plea colloquy if those facts establish that the plea was not knowing, intelligent, and voluntary). Although counsel's explanation for this conclusion could have been more clear, I interpret it to mean that, despite Pharis's prior assertions in the revocation proceeding, Pharis is not now making any assertion about her understanding of the plea that would support a non-frivolous motion for plea withdrawal. Pharis has not filed a no-merit response disputing that assertion. Accordingly, I agree with counsel's assessment that a postconviction motion for plea withdrawal would be wholly frivolous. A valid guilty plea constitutes a waiver of all nonjurisdictional defects and defenses. *State v. Kelty*, 2006 WI 101, ¶18, 294 Wis. 2d 62, 716 N.W.2d 886.

I also conclude that there would be no arguable merit to further proceedings challenging the circuit court's sentencing decision. The court imposed the probation term jointly recommended by the parties. Because the court followed the joint sentencing recommendation, there would be no arguable merit to further proceedings based on the court's sentencing decision. *See State v. Scherreiks*, 153 Wis. 2d 510, 518, 451 N.W.2d 759 (Ct. App. 1989).

Upon my independent review of the record, I have found no other arguable basis for reversing the judgments of conviction. I conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

IT IS ORDERED that the judgments of conviction are summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Daniel P. Ryan is relieved of any further representation of Crystal Ann Pharis 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