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DISTRICT II

December 29, 2021

To:

Hon. Angela W. Sutkiewicz
Circuit Court Judge
Electronic Notice

Melody Lorge
Clerk of Circuit Court
Sheboygan County
Electronic Notice

Winn S. Collins
Electronic Notice

Mark A. Schoenfeldt
Electronic Notice

Joel Urmanski
Electronic Notice

Avery L. Applewhite, Sr., #489011
Racine Correctional Inst.
P.O. Box 900
Sturtevant, WI 53177-0900

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

2021AP172-CRNM State of Wisconsin v. Avery L. Applewhite, Sr. (L.C. #2016CF314)

Before Gundrum, P.J., Neubauer 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).

Avery L. Applewhite, Sr., appeals from a judgment convicting him of resisting an officer and felony bail jumping, both as a repeater. His appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2019-20)¹ and *Anders v. California*, 386 U.S. 738 (1967). Applewhite received a copy of the report, was advised of his right to file a response, and has elected not to do so. Upon consideration of the report and an independent review of the record,

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

we conclude that the judgment may be summarily affirmed because there are no issues with arguable merit for appeal. *See* WIS. STAT. RULE 809.21.

Applewhite was convicted following no contest pleas to resisting an officer and felony bail jumping, both as a repeater. He was accused of resisting an officer who was attempting to take his child into custody on behalf of social services.² At the time of the offense, Applewhite was out on bond in another felony case. One of the conditions of that bond was that he not engage in any criminal activity.

The circuit court followed the parties' joint recommendation at sentencing. Accordingly, it imposed a concurrent sentence of nine months in jail on the resisting charge. It also ordered a consecutive term of two years of probation on the bail-jumping charge. This no-merit appeal follows.

The no-merit report addresses potential issues of (1) whether Applewhite's pleas were validly entered and had a factual basis, (2) whether the circuit court properly exercised its discretion at sentencing, and (3) whether trial counsel was effective. This court is satisfied that the no-merit report correctly analyzes the issues it raises as without merit, and this court will not discuss them further.

Our review of the record discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit report, affirms the judgment of conviction, and discharges appellate counsel of the obligation to represent Applewhite further in this appeal.

² Social services believed that Applewhite's child was suffering from neglect.

Upon the foregoing reasons,

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 Mark A. Schoenfeldt is relieved of further representation of Avery L. Applewhite, Sr., in this appeal. *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