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DISTRICT I

January 11, 2022

To:

Hon. David A. Hansher
Circuit Court Judge
Electronic Notice

John Barrett
Clerk of Circuit Court
Milwaukee County
Electronic Notice

Winn S. Collins
Electronic Notice

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Angela Conrad Kachelski
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Corey B. Eubanks Jr. 609370
Racine Correctional Inst.
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You are hereby notified that the Court has entered the following opinion and order:

2021AP1326-CRNM	State of Wisconsin v. Corey B. Eubanks, Jr. (L.C. # 2019CF4435)
2021AP1327-CRNM	State of Wisconsin v. Corey B. Eubanks, Jr. (L.C. # 2019CF4879)

Before Brash, C.J., Dugan and White, 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).

Corey B. Eubanks, Jr., appeals judgments convicting him of one count of fleeing or eluding an officer, one count of second-degree recklessly endangering safety, and one count of possession of cocaine with intent to deliver. Appellate counsel, Attorney Angela Conrad Kachelski, filed a no-merit report pursuant to *Anders v. California*, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32 (2019-20).¹ Eubanks was advised of his right to file a response but he

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

did not respond. Upon consideration of the no-merit report and an independent review of the record as mandated by *Anders*, we conclude that no arguably meritorious issues exist for an appeal. Therefore, we summarily affirm. *See* WIS. STAT. RULE 809.21.

Pursuant to a plea agreement, Eubanks entered guilty pleas to one count of fleeing or eluding an officer and one count of second-degree recklessly endangering safety. He also entered a no-contest plea to one count of possession of cocaine with intent to deliver. The circuit court sentenced Eubanks to an aggregate term of four years of initial confinement and four years of extended supervision, to be served consecutively to the sentence that was imposed after Eubanks's probation was revoked.

The no-merit report addresses whether Eubanks could pursue an arguably meritorious claim for plea withdrawal on the ground that his pleas were not knowingly, intelligently, and voluntarily entered. The circuit court conducted a thorough plea colloquy with Eubanks that fully complied with the circuit court's obligations when accepting a plea other than not guilty. *See* WIS. STAT. § 971.08; *see also State v. Bangert*, 131 Wis. 2d 246, 257, 389 N.W.2d 12 (1986). In addition, the record contains plea questionnaire and waiver of rights forms, which were signed by Eubanks, that list the constitutional rights that Eubanks was waiving, the elements of the crimes in attached addenda, and other information pertinent to Eubanks's waiver of his right to trial. Based on our review of the record, we conclude that Eubanks entered his pleas knowingly, intelligently, and voluntarily. Further pursuit of this issue would lack arguable merit.

The no-merit report further addresses whether Eubanks could pursue an arguably meritorious challenge to the circuit court's exercise of sentencing discretion. *See State v.*

Gallion, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197. The circuit court characterized Eubanks’s fleeing conviction to be serious, noting that he sped away from the police driving 110 miles per hour on city streets, which could have resulted in grave harm to pedestrians and others. The circuit court indicated that protecting the public from these types of acts and Eubanks’s poor prior record also factored into its decision. The circuit court considered appropriate factors in deciding the length of sentence to impose and explained its decision in accordance with the framework set forth in *Gallion*. *Id.*, ¶¶39-46. The sentences did not exceed the maximum penalties allowed by law, and the aggregate penalty imposed was significantly less than the aggregate penalties that Eubanks faced upon conviction. Eubanks therefore cannot mount an arguably meritorious claim that his sentences are excessive or shocking. *See State v. Mursal*, 2013 WI App 125, ¶26, 351 Wis. 2d 180, 839 N.W.2d 173. We conclude that a challenge to the circuit court’s exercise of sentencing discretion would lack arguable merit.

The no-merit report also discusses the proceedings that took place in these cases prior to the plea hearing. We agree with the no-merit report’s conclusion that there are no arguably meritorious issues for appeal based on the circuit court proceedings held before Eubanks entered his pleas. Our independent review of the record does not disclose any other potential issues for appeal. Therefore, we conclude that further postconviction or 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 Angela Conrad Kachelski is relieved of any further representation of Eubanks 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