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DISTRICT III

January 25, 2022

To:

Hon. Joseph D. Boles
Circuit Court Judge
Electronic Notice

Kerry Feuerhelm
Clerk of Circuit Court
Pierce County Courthouse
Electronic Notice

Winn S. Collins
Electronic Notice

Halle Elizabeth Hatch
Electronic Notice

Roberta A. Heckes
Electronic Notice

Stuart Earl West
N4758 350th Street
Elmwood, WI 54740

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

2019AP1360-CRNM State of Wisconsin v. Stuart Earl West (L. C. No. 2016CM91)

Before Hruz, 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).

Counsel for Stuart West has filed a no-merit report concluding there is no basis to challenge West's convictions, following a jury trial, for six counts of intentionally providing improper animal shelter—space; forty-eight counts of intentionally failing to provide food and water for confined animals; and seven counts of intentionally mistreating animals. West was advised of his right to respond, and he has failed to do so. Upon our independent review of the

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

record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude there is no merit to any issue that could be raised on appeal and summarily affirm. *See* WIS. STAT. RULE 809.21.

A criminal complaint charged West with 117 total counts stemming from improper animal shelter and failing to provide food and drink to confined animals. An amended complaint added eight additional counts of mistreating animals.

The charges stemmed from an email a Pierce County Sheriff’s Investigator received from the American Society for the Prevention of Cruelty to Animals (ASPCA) alleging animal abuse at West’s kennel, as well as from a citizen’s complaint filed with the Sheriff’s Department. Deputies responded to the complaint, and a search warrant was executed. Deputies brought with them ASPCA representatives, including a field investigator and response team veterinarian.

The individual who filed the complaint with the Sheriff’s Department testified at trial that he and his wife visited West’s property intending to purchase a puppy. He stated that upon his arrival he observed “dog fecal matter all over the yard and deer hair all over.” He further testified that West told him that “[West] hadn’t had running water in over a year.” The house “stunk really bad” of dog urine. He and his wife “had to get out of there because she couldn’t breathe.” He further testified that West had “three adult dogs in a crate that was made for one dog, he had dogs—females in there with puppies.” He and his wife then left. The individual then testified:

[O]n the way home, we were talking about how we both smelled so bad from being in there, and that ... was nauseating to us, to see the dogs kept in that condition. And then we went home at night, we both had a hard time sleeping that night, and the next morning I made the decision to call the sheriff’s department, file a complaint.

Law enforcement officers also testified about the conditions at West's kennel. Officers found sixteen dogs dead in the barn. The officers also found numerous dogs running loose and in extremely dirty cages, as well as deer and cattle carcasses throughout the property. Each dog had at least one medical condition, such as poor body condition, internal and external parasites, dental disease and dental fractures, dermatitis, and wounds. Some of the dogs had pus coming out of their ears.

Inside the residence, officers found dogs and cages on the main floor and basement, with two or three dogs in a cage, unable to stand up fully, turn around easily, or lie out fully stretched. The residence was inadequately ventilated, and officers were frequently overpowered by the stench in the residence, which one officer described as "decomposition mixed with urine and feces." None of the dogs were current with vaccinations or licenses.

West told the officers he fed his dogs "downed cattle and car-killed deer." A neighbor also testified about West's practice of picking up "roadkill deer or farmers that had downed animals." West let his dogs out once a day to feed on the carcass pile. There was no evidence of commercial dog food or water dishes anywhere in the house, and many of the dogs appeared dehydrated, including the puppies. The only water in the house was located in five-gallon buckets sitting in the bathtub. West stated the plumbing had stopped working due to frozen pipes. In an upstairs bedroom, a roof leak was observed where West used totes to catch rainwater.

Following a three-day trial, the jury found West guilty on Counts 1 through 6 of intentionally providing improper animal shelter—space; guilty on Counts 70 through 117 of intentionally failing to provide food and water for confined animals; and guilty on Counts 118

through 125 of intentionally mistreating animals. Out of a maximum potential punishment of forty-eight years' incarceration time and \$640,000 in fines, the circuit court imposed a forty-day jail sentence with work release on Counts 1-6 and 70-117, each count concurrently; seven months' jail, imposed and stayed, on Count 118, concurrently; and three years' concurrent probation on Counts 119-125.

The no-merit report addresses issues regarding the sufficiency of the evidence; whether there are any grounds to challenge the effectiveness of West's trial counsel,² and whether the circuit court properly exercised its sentencing discretion. This court is satisfied that the no-merit report properly analyzes the issues raised, and we will not discuss them further. Our independent review of the record discloses no other potential issues for appeal.

Therefore,

IT IS ORDERED that the judgment is summarily affirmed. WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Roberta A. Heckes is relieved of further representing Stuart West in this matter. *See* WIS. STAT. RULE 809.32(3).

² The no-merit report states that West believed his trial attorney was "drug impaired." The no-merit report also states, "Despite the unanimous decision by the jury, that found West 'not guilty' on 62 of 125 counts, West believes that he received ineffective assistance of counsel because he was found 'guilty' on the other counts."

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Sheila T. Reiff
Clerk of Court of Appeals