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DISTRICT III

February 8, 2022

To:

Hon. Maureen D. Boyle
Circuit Court Judge
Electronic Notice

Sharon Millermon
Clerk of Circuit Court
Barron County Justice Center
Electronic Notice

Katie Babe
Electronic Notice

Winn S. Collins
Electronic Notice

Brian H. Wright
Electronic Notice

Brandie L. Boswell
P.O. Box 105
Winter, WI 54896

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

2019AP2140-CRNM State of Wisconsin v. Brandie L. Boswell
(L. C. No. 2017CM315)

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 Brandie Boswell has filed a no-merit report concluding that no grounds exist for challenging her convictions, following a jury trial, for: second-offense operating a motor vehicle with a restricted controlled substance in her blood; possession of THC; and possession of drug paraphernalia. Boswell was advised of her right to respond to the report and has failed to do so. Upon an independent review of the record as mandated by *Anders v. California*, 386 U.S.

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.

738 (1967), this court concludes that there is no arguable merit to any issue that could be raised on appeal, and the judgment of conviction is summarily affirmed.

A Wisconsin state trooper testified at trial that he stopped Boswell for driving seventy-four miles-per-hour in a fifty-five-miles-per-hour zone. As the trooper was speaking to Boswell, he could smell the odor of marijuana coming from her vehicle. Boswell initially told the trooper that her brother had used the vehicle earlier in the day, and that she did not smoke marijuana. However, she subsequently told the trooper that she had smoked marijuana several times that day.

Prior to a search of the vehicle, Boswell stated that there was marijuana in the center console. A subsequent search revealed a bag of a green leafy substance, which later tested positive for the presence of THC. A glass pipe and a digital scale were also found in the vehicle. A blood draw was subsequently conducted, and a chemist from the Wisconsin Laboratory of Hygiene testified that Boswell's blood contained THC.

The jury returned guilty verdicts in thirteen minutes. The circuit court imposed a sentence of ten days in jail, with Huber release, on the operating with a restricted controlled substance count.² The court withheld sentence on the possession counts, and it placed Boswell on one year of probation on each count, running concurrently to each other. The court also ordered Boswell to serve ten days in jail as a condition—consecutive to the jail time ordered on

² A count of operating a motor vehicle while intoxicated—second offense was dismissed by operation of law. In addition, at the time of sentencing in this case, Boswell also entered a plea in Barron County case No. 2018CM19. Sentence in that case was withheld. Boswell was placed on one year of probation, concurrent to her other cases. She was also sentenced on several other traffic matters. The circuit court found her not guilty regarding a citation for open intoxicants. Boswell did not file a notice of appeal in case No. 2018CM19 or in the traffic cases, and we shall not further address them.

the restricted controlled substance count—but the court further ordered: “The jail time may be served by 80 hours of community service. If the defendant fails to perform the community service as ordered[,] she must report to the jail as ordered with a credit of 1 day of jail served for each 8 hours of community service completed.”

The no-merit report addresses whether there was sufficient evidence to support the jury’s verdicts and whether the circuit court properly exercised its sentencing discretion. This court is satisfied that the no-merit report correctly analyzes the issues it raises as being without merit, and this court will not further address them. An independent 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 Boswell further in this appeal.

Upon the foregoing, therefore,

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

IT IS FURTHER ORDERED that Attorney Katie Babe is relieved of further representing Brandie Boswell 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