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DISTRICT II

March 16, 2022

To:

Hon. Brad Schimel
Circuit Court Judge
Electronic Notice

Monica Paz
Clerk of Circuit Court
Waukesha County
Electronic Notice

Winn S. Collins
Electronic Notice

David Malkus
Electronic Notice

Susan Lee Opper
Electronic Notice

Javier Cruz, #686602
Wisconsin Secure Program Facility
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Boscobel, WI 53805-1000

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

2021AP1814-CRNM State of Wisconsin v. Javier Cruz (L.C. #2018CF688)

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).

Javier Cruz appeals from a judgment of conviction and an order denying his postconviction motion. 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). Cruz filed a response. After reviewing the record, counsel's report, and Cruz's response, we conclude there are no

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

issues with arguable merit for appeal. We summarily affirm the judgment and order. *See* WIS. STAT. RULE 809.21.

Cruz was convicted following a no contest plea to attempted first-degree intentional homicide with use of a dangerous weapon. He was accused of stabbing his wife with a large knife in front of their children. Several additional charges were dismissed and read in. The circuit court imposed a sentence of thirty years of initial confinement and twenty years of extended supervision.

Cruz subsequently filed a postconviction motion seeking to withdraw his plea. He accused his trial counsel of improperly inducing his plea by promising him a lesser sentence. After an evidentiary hearing on the matter, the circuit court denied Cruz's motion, finding his allegation incredible. This no-merit appeal follows.

The no-merit report addresses (1) whether the circuit court erred in accepting Cruz's plea; (2) whether the circuit court erred in sentencing Cruz; and (3) whether the circuit court erred in denying Cruz's postconviction motion. This court is satisfied that the no-merit report correctly analyzes the issues it raises as without merit.

As noted, Cruz filed a response to the no-merit report. In it, he references the same issues addressed by the no-merit report, which we will not discuss further. In any event, we are not persuaded that Cruz's response presents an issue of arguable merit.

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

Upon the foregoing reasons,

IT IS ORDERED that the judgment and order of the circuit court are summarily affirmed.

See WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney David Malkus is relieved of further representation of Javier Cruz 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