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DISTRICT III

April 12, 2022

To:

Hon. David L. Weber
Circuit Court Judge
Electronic Notice

Connie DeFere
Clerk of Circuit Court
Door County Courthouse
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Timothy T. O'Connell
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Jonathan Jacob Henry Shawnoskey 682235
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You are hereby notified that the Court has entered the following opinion and order:

2020AP706-CRNM State of Wisconsin v. Jonathan Jacob Henry Shawnoskey
(L. C. No. 2018CF118)

Before Stark, P.J., Hruz and Gill, 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).

Counsel for Jonathan Shawnoskey has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2019-20),¹ concluding that no grounds exist to challenge Shawnoskey's conviction for one count of second-degree sexual assault of a child. Shawnoskey was informed of his right to file a response to the no-merit report, and he has not responded. Pursuant to this court's order dated March 10, 2022, counsel filed a supplemental no-merit report addressing one potential issue. Having reviewed the no-merit report and supplemental no-merit report, and upon our

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

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

Shawnoskey was charged with two counts of second-degree sexual assault of a child, contrary to WIS. STAT. § 948.02(2). The criminal complaint alleged that Shawnoskey had sexual intercourse with the thirteen-year-old victim on August 19, 2018, and on a second occasion between August 19 and September 6, 2018. According to the complaint, the victim's mother told law enforcement that Shawnoskey had admitted to her that he had sexual intercourse with the victim on two occasions. The victim's mother also reported that Shawnoskey told her that he had placed the condom he used during one of the assaults in a Monster beverage can, which he then placed in the garbage. The victim's mother provided the police with a Monster beverage can containing a condom, which she claimed to have taken from the garbage at the address where one of the assaults occurred. The victim's mother also provided audio recordings to the police, in which Shawnoskey made statements strongly implying that he had a sexual relationship with the victim. During an interview with Investigator Neuville of the Door County Sheriff's Office, Shawnoskey admitted to having sexual intercourse with the victim on two occasions.

Pursuant to a plea agreement, Shawnoskey entered a guilty plea to the first sexual assault charge. The second charge was dismissed and read in. In exchange for Shawnoskey's plea, the State agreed to cap its sentence recommendation at forty years, bifurcated as twenty years' initial confinement followed by twenty years' extended supervision. The defense was free to argue at sentencing.

The State subsequently recommended a thirty-five-year sentence, comprised of twenty years' initial confinement and fifteen years' extended supervision. The defense recommended five years' initial confinement and five years' extended supervision. The circuit court ultimately sentenced Shawnoskey to fifteen years' initial confinement followed by fifteen years' extended supervision. The court awarded Shawnoskey 294 days of sentence credit. Shawnoskey later filed a motion seeking one additional day of sentence credit. The court granted that motion and amended Shawnoskey's judgment of conviction accordingly.

The no-merit report addresses whether there would be any arguable merit to a claim for plea withdrawal on the grounds that Shawnoskey's plea was not knowingly, intelligently, and voluntarily entered. We agree with counsel's description, analysis, and conclusion that any challenge to Shawnoskey's plea on this basis would lack arguable merit. We therefore do not address this issue further.

Ineffective assistance of counsel may constitute a manifest injustice permitting a defendant to withdraw his or her guilty plea after sentencing. *State v. Dillard*, 2014 WI 123, ¶¶83-84, 358 Wis. 2d 543, 859 N.W.2d 44. During our review of the record in this case, we noted that when speaking to the author of the presentence investigation report, Shawnoskey asserted that his admission to having sexual intercourse with the victim was "coerced." Specifically, he claimed that Investigator Neuville told him, "Tell me what I want to hear," and Shawnoskey "repeated Investigator Neuville and then told him what he wanted to hear." In light of these assertions, we directed counsel to file a supplemental no-merit report addressing whether there would be arguable merit to a claim that Shawnoskey's trial attorney was ineffective by failing to file a suppression motion arguing that Shawnoskey's confession was coerced or otherwise involuntary. Having reviewed the supplemental no-merit report, we agree with

counsel's description, analysis, and conclusion that there would be no arguable merit to such a claim. Any motion for plea withdrawal on that basis would therefore lack arguable merit.

Finally, the no-merit report addresses whether there would be any arguable merit to a claim challenging Shawnoskey's sentence. Based upon our independent review of the record, we agree with counsel's description, analysis, and conclusion that any claim challenging Shawnoskey's sentence would lack arguable merit. Accordingly, we do not address that issue 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 Timothy O'Connell is relieved of further representing Jonathan Shawnoskey 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