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DISTRICT II

May 4, 2022

To:

Hon. Rebecca L. Persick
Circuit Court Judge
Electronic Notice

Melody Lorge
Clerk of Circuit Court
Sheboygan County Courthouse
Electronic Notice

Daniel Goggin II
Electronic Notice

Joel Urmanski
Electronic Notice

Winn S. Collins
Electronic Notice

Jody L. Dorrler
86 Lincoln Ave.
Sheboygan, WI 53081

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

2020AP429-CRNM State of Wisconsin v. Jody L. Dorrler (L.C. #2018CM657)

Before Gundrum, 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).

Jody L. Dorrler appeals from a judgment of conviction entered upon her no-contest plea to disorderly conduct. Dorrler's appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 and *Anders v. California*, 386 U.S. 738 (1967). Dorrler was advised of her right to file a response and has elected not to do so. Upon consideration of the no-merit report

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

and our independent review of the record, we conclude that the judgment may be summarily affirmed because there is no arguable merit to any issue that could be raised on appeal. *See* WIS. STAT. RULE 809.21.

The State charged Dorrler with the following two misdemeanors: disorderly conduct as an act of domestic abuse; and obstructing an officer. Pursuant to a negotiated settlement, Dorrler pled no contest to disorderly conduct *without* the domestic abuse enhancer, and the obstructing charge (count two) was dismissed and read in for sentencing purposes. The State recommended a withheld sentence in favor of probation with various conditions, including thirty days of conditional jail time to be imposed but stayed. Dorrler recommended three days of jail and a \$250 fine, but informed the circuit court that if it imposed probation, Dorrler sought permission for “early discharge at the agent’s discretion.” The court withheld sentence and ordered a one-year term of probation with various conditions, including fifteen days of imposed but stayed conditional jail time. The court provided that Dorrler could seek early discharge from probation at the recommendation of her agent. This no-merit appeal follows.

Appointed counsel’s no-merit report first addresses whether Dorrler’s no-contest plea was knowingly, intelligently, and voluntarily entered. The circuit court’s plea-taking duties are set forth in WIS. STAT. § 971.08(1), and summarized in *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906. We agree with the no-merit report’s analysis and ultimate conclusion that no issue of arguable merit arises from the plea-taking procedures, but observe that one part of the plea-taking colloquy warrants further discussion. Specifically, the circuit court did not provide the deportation warning required by § 971.08(1)(c), and the no-merit report does not address this potential issue. However, we conclude that in this case, the lack of an on-

the-record deportation warning does not give rise to an arguably meritorious plea withdrawal claim.

First and foremost, there is no suggestion in the record that Dorrler is not a U.S. citizen or that her no-contest plea is likely to result in her deportation. *See* WIS. STAT. § 971.08(2) (if the plea-taking court fails to provide the deportation warning “*and* a defendant later shows that the plea is likely to result in the defendant’s deportation,” or other immigration consequences, “the court on the defendant’s motion shall vacate” the judgment and permit plea withdrawal) (emphasis added). The electronic circuit court docket entries reflect that Dorrler successfully completed her term of probation; there is no mention of an immigration hold. Additionally, Dorrler’s signed plea questionnaire/waiver of rights form contains the deportation warning. *See State v. Moederndorfer*, 141 Wis. 2d 823, 827-28, 416 N.W.2d 627 (Ct. App. 1987) (a completed plea questionnaire and waiver of rights form is competent evidence of a knowing, intelligent, and voluntary plea). The plea-taking court ascertained that Dorrler was “clearheaded[,]” had reviewed the plea paperwork with her attorney, and signed the plea questionnaire. In signing the form, Dorrler attested as follows:

Defendant’s Statement

I have reviewed and understand this entire document and any attachments. I have reviewed it with my attorney I have answered all questions truthfully and either I or my attorney have checked the boxes. I am asking the court to accept my plea and find me guilty.

Given these circumstances, a challenge to the plea-taking procedures in this case would be wholly frivolous.

Next, appellate counsel’s no-merit report addresses whether the circuit court properly exercised its sentencing discretion. The record reveals that the court’s sentencing decision had a “rational and explainable basis.” See *State v. Gallion*, 2004 WI 42, ¶76, 270 Wis. 2d 535, 678 N.W.2d 197 (citation omitted). In fashioning its sentence, the circuit court considered the gravity of the offense, Dorrlor’s character and history, and the need to protect the public. See *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. The court considered appropriate factors, did not consider improper factors, and reached a rational result. Further, under the circumstances of this case, it cannot reasonably be argued that Dorrlor’s one-year term of probation is so excessive as to shock public sentiment. See *Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). We agree with appellate counsel that a challenge to Dorrlor’s sentence would lack arguable merit.

Our independent review of the record reveals no other potential issues of arguable merit. Therefore,

IT IS ORDERED that the judgment of the circuit court is summarily affirmed. See WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Daniel R. Goggin II, is relieved from further representing Jody L. Dorrlor 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