



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688
Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT I

June 14, 2022

To:

Hon. Michelle Ackerman Havas
Circuit Court Judge
Electronic Notice

George Christenson
Clerk of Circuit Court
Milwaukee County Safety Building
Electronic Notice

Winn S. Collins
Electronic Notice

Annice Kelly
Electronic Notice

Robert L Tucker 563019
P O Box 900
Columbia Correctional
Portage, WI 53901-0900

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

2022AP165-CRNM State of Wisconsin v. Robert L. Tucker (L.C. # 2019CF1901)

Before Brash, C.J., Donald, P.J., and White, J.

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).

Robert L. Tucker appeals a judgment convicting him of one count of substantial battery, as a party to a crime, and one count of unlawfully possessing a firearm after being convicted of a felony. Attorney Annice Kelly filed a no-merit report seeking to withdraw as appellate counsel. See WIS. STAT. RULE 809.32 (2017-18),¹ and *Anders v. California*, 386 U.S. 738, 744 (1967). Tucker was advised of his right to respond, but he has not done so. After considering the no-merit report and conducting an independent review of the record as mandated by *Anders*, we

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

conclude that there are no issues of arguable merit that Tucker could raise on appeal. Therefore, we affirm. *See* WIS. STAT. RULE 809.21.

The no-merit report addresses whether Tucker’s guilty pleas were knowingly, intelligently, and voluntarily entered. In order to ensure that a defendant is knowingly, intelligently, and voluntarily waiving the right to trial by entering a guilty plea, the circuit court must conduct a colloquy with the defendant to ascertain whether the defendant understands the elements of the crimes to which he is pleading guilty, the constitutional rights he is waiving by entering the plea, and the maximum potential penalties that could be imposed. *See* WIS. STAT. § 971.08; *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906. A plea questionnaire and waiver-of-rights form that the defendant has acknowledged reviewing and understanding may reduce “the extent and degree of the colloquy otherwise required between the trial court and the defendant.” *State v. Hoppe*, 2009 WI 41, ¶42, 317 Wis. 2d 161, 765 N.W.2d 794 (citation and footnote omitted). Based on the circuit court’s thorough plea colloquy with Tucker and Tucker’s review of the plea questionnaire and waiver-of-rights form, there would be no arguable merit to an appellate challenge to the plea.

The no-merit report addresses whether there would be arguable merit to a claim that the circuit court misused its discretion when it sentenced Tucker. The circuit court sentenced Tucker to a total of seven years of initial confinement and four years of extended supervision. The circuit court considered the appropriate factors in deciding the length of sentence to impose and explained its decision in accordance with the framework set forth in *State v. Gallion*, 2004 WI 42, ¶¶39-46, 270 Wis. 2d 535, 678 N.W.2d 197. Therefore, there would be no arguable merit to an appellate challenge to the sentence.

Our independent review of the record also reveals no arguable basis for reversing the judgment of conviction. Therefore, we affirm the judgment.

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 Annice Kelly is relieved of any further representation of Robert L. Tucker 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