



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](http://www.wicourts.gov)

**DISTRICT I**

August 9, 2022

To:

Hon. Jeffrey A. Kremers  
Circuit Court Judge  
Electronic Notice

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

Winn S. Collins  
Electronic Notice

John D. Flynn  
Electronic Notice

Jay R. Pucek  
Electronic Notice

Ray A. Hampton Jr. 601062  
Fox Lake Correctional Inst.  
P.O. Box 200  
Fox Lake, WI 53933-0200

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

---

2021AP1413-CRNM	State of Wisconsin v. Ray A. Hampton, Jr. (L.C. # 2017CF1102)
2021AP1414-CRNM	State of Wisconsin v. Ray A. Hampton, Jr. (L.C. # 2017CF5513)

Before Brash, C.J., Dugan and White, 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).**

Ray A. Hampton, Jr. appeals from judgments of conviction, entered upon jury verdicts, of multiple crimes in these consolidated matters. Appellate counsel Jay Pucek has filed a no-merit report pursuant to *Anders v. California*, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32 (2019-20).<sup>1</sup> Hampton was advised of his right to file a response, and has filed multiple responses. Appellate counsel has also submitted a supplemental no-merit report. Upon this

---

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

court's independent review of the record as mandated by *Anders*, counsel's reports, and Hampton's responses, we conclude that there are no issues of arguable merit that could be pursued on appeal. We, therefore, summarily affirm the judgment and order.

In Milwaukee County Circuit Court case No. 2017CF1102, the State charged Hampton with one count of knowingly violating a domestic abuse injunction with domestic abuse and habitual criminality repeater penalty enhancers, and two counts of second-degree recklessly endangering safety with the habitual criminality repeater penalty enhancer. According to the complaint and amended information, on the morning of February 26, 2017, L.M. was on the phone with Hampton, her ex-boyfriend, when she heard a gunshot in her backyard, which also echoed through her phone. A few seconds later, L.M. heard a second gunshot outside of her home. L.M.'s ten-year-old daughter, J.C.M., was home at the time. J.C.M. went upstairs and told L.M. that a bullet came through the kitchen window after hearing the first shot. The complaint further states that J.C.M. told police that she heard Hampton's voice outside of her home just before hearing a gunshot. L.M. told police that she had a valid domestic abuse injunction against Hampton. The complaint further states that police found two bullet holes in L.M.'s home.

On December 1, 2017, the State filed another criminal complaint against Hampton in Milwaukee County Circuit Court case No. 2017CF5513, charging Hampton with two counts of felony witness intimidation and two counts of violating a domestic abuse injunction, with domestic abuse and habitual criminality repeater penalty enhancers. The complaint alleged that while in jail, and later upon his release on bond, Hampton contacted L.M. multiple times and discussed his case, L.M.'s cooperation with the State, and used the phrase "no face, no case." An amended complaint later charged Hampton with four additional charges: two counts of

felony bail jumping and two counts of violating a domestic abuse injunction, all with domestic abuse and habitual criminality repeater penalty enhancers.

The cases were joined and proceeded to trial where multiple witnesses testified. The jury ultimately found Hampton guilty of all charges. On March 29, 2018, the trial court sentenced Hampton to a total prison term of sixteen years and eleven months of initial confinement, followed by twenty years of extended supervision. Hampton appeals.

Appellate counsel addresses three potential issues in his no-merit report: sufficiency of the evidence; whether any meritorious appellate issues arose during the pretrial proceedings or at Hampton's trial; and whether the trial court properly exercised its sentencing discretion. Hampton's responses challenge the sufficiency of the evidence and the effectiveness of trial counsel in multiple regards.

The first issue appellate counsel discusses is whether sufficient evidence supports the jury's verdicts. We view the evidence in the light most favorable to the verdict and, if more than one reasonable inference can be drawn from the evidence, we must accept the one drawn by the jury. *See State v. Poellinger*, 153 Wis. 2d 493, 504, 451 N.W.2d 752 (1990). The jury is the sole arbiter of witness credibility and it alone is charged with the duty of weighing the evidence. *See id.* at 506. “[T]he jury verdict will be overturned only if, viewing the evidence most favorably to the [S]tate and the conviction, it is inherently or patently incredible, or so lacking in probative value that no jury could have found guilt beyond a reasonable doubt.” *State v. Alles*, 106 Wis. 2d 368, 376-77, 316 N.W.2d 378 (1982) (citation and emphasis omitted).

Hampton was charged with eleven crimes: five counts of knowingly violating a domestic abuse injunction, two counts of second-degree recklessly endangering safety, two counts of felony witness intimidation, and two counts of felony bail jumping.

To meet its burden to convict Hampton of knowingly violating a domestic abuse injunction, the State had to prove three things as to each of the five counts: (1) an injunction was issued against Hampton; (2) Hampton violated the terms of the injunction; and (3) Hampton knew that the injunction had been issued and he knew that he violated its terms. WIS JI—CRIMINAL 2040; *see also* WIS. STAT. § 813.12(8)(a).

To secure a conviction for second-degree recklessly endangering safety, the State was required to prove two elements as to each count: (1) Hampton endangered the safety of another human being, and (2) he did so by criminally reckless conduct, meaning that he was aware that his conduct created an unreasonable and substantial risk of death or great bodily harm. WIS JI—CRIMINAL 1347; *see also* WIS. STAT. § 941.30(2).

In order to convict Hampton of felony witness intimidation, the State had to prove four things as to each count: (1) L.M. was a witness in case No. 2017CF1102; (2) Hampton attempted to dissuade her from attending or giving testimony at his trial; (3) Hampton acted knowingly and maliciously; and (4) the intimidation was done in connection with a felony case. WIS JI—CRIMINAL 1292; *see also* WIS. STAT. § 940.43(7).

In order to convict Hampton of felony bail jumping, the State had to prove three things as to each count: (1) Hampton was charged with a felony in case No. 2017CF1102; (2) Hampton was released from custody on bond in that case; and (3) Hampton intentionally failed to comply

with the terms of the bond by contacting L.M. *See* WIS JI—CRIMINAL 1795; *see also* WIS. STAT. § 946.49(1)(b).

We have reviewed the entirety of the record and conclude that the record supports Hampton's convictions. Multiple witnesses testified and multiple exhibits were received, all supporting the jury's findings that Hampton recklessly endangered L.M. and J.C.M.'s safety by shooting at their home; that L.M. had a valid injunction against Hampton, which he knowingly violated; that Hampton called L.M. numerous times and encouraged her not to cooperate with the State; and that Hampton failed to comply with the terms of his release from custody in case No. 2017CF1102.

Counsel's no-merit report next addresses whether any meritorious appellate issues arose during the pretrial proceedings or at Hampton's trial. As to this issue, the no-merit report addresses the complaints, pretrial hearings, evidentiary issues, joinder, jury selection, preliminary instructions, objections at trial, jury instructions, and closing arguments. We are satisfied that the no-merit report thoroughly and accurately addresses all of these issues. There would be no arguable merit to any challenges pertaining to pretrial proceedings or anything that occurred during trial.

The third issue that appellate counsel discusses is whether the trial court erroneously exercised its sentencing discretion. *See State v. Gallion*, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197. Our review of the record confirms that the trial court appropriately considered relevant sentencing objectives and factors. *See id.*, ¶41; *see also State v. Odom*, 2006 WI App 145, ¶7, 294 Wis. 2d 844, 720 N.W.2d 695; *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76.

The trial court focused on the seriousness of the shooting, the danger Hampton's conduct posed to L.M. and J.C.M., Hampton's disregard of court orders, and Hampton's attempt to prevent L.M. from cooperating with the State. The trial court also discussed Hampton's character, noting his lack of impulse control and prior criminal record, as well as the need to protect the public from violent conduct such as that which Hampton displayed. The sentences are also within the range authorized by law, *see State v. Scaccio*, 2000 WI App 265, ¶18, 240 Wis. 2d 95, 622 N.W.2d 449, and are not so excessive so as to shock the public's sentiment, *see Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975).<sup>2</sup> Therefore, there is no arguable merit to a challenge to the trial court's sentencing discretion.

Turning to the issues raised by Hampton's responses, we note first that we have already established that the evidence in the record supports Hampton's convictions. Hampton also contends, however, that his trial counsel was ineffective for failing to call an alibi witness. Hampton alleged that he had an alibi witness, J.J., who could have testified and corroborated that Hampton was with her at the time of the shooting. Hampton further stated that he told his trial attorney about J.J., but that counsel failed to investigate this witness and failed to call her to testify at his trial.

---

<sup>2</sup> The trial court initially over-sentenced Hampton in case No. 2017CF5513 by sentencing him over the maximum penalty on counts two, four, six, and eight, and by sentencing him over the maximum amount of extended supervision on counts five and seven. Upon learning of the error, the trial court resentenced Hampton to conform to the range authorized by law. As to counts five and seven, the trial court ordered the extended supervision term of three-and-a-half years commuted to the maximum possible term of three years on each count. Following a resentencing hearing, the trial court ordered sentences of one year of initial confinement and one year of extended supervision on counts two, four, six, and eight, with each running concurrent to its corresponding charge for witness intimidation or bail jumping. The parties agreed to the trial court's amended sentence.

The no-merit report explains that appellate counsel investigated Hampton's concern and ultimately concluded that there would be no arguable merit to this issue because J.J. acknowledged that there was a significant period of time in the morning on February 26, 2017, that Hampton was not with her. Appellate counsel noted that J.J.'s statement was consistent with the testimony of Detective Richard Fredericks, who stated that J.J. did acknowledge that Hampton was helping her move on February 26, 2017, but she was not able to provide an alibi for the specific time of the shooting. We, therefore, agree with appellate counsel that there is no arguably meritorious issue regarding the supposed alibi witness as there would be no probability of a different result had J.J. testified at Hampton's trial. See *State v. Love*, 2005 WI 116, ¶30, 284 Wis. 2d 111, 700 N.W.2d 62.

Hampton also contends that trial counsel failed to cross-examine Milwaukee Police Officer Patrick Fuhrman regarding Fuhrman's testimony about cell phone tower records. Hampton contends that trial counsel should have elicited testimony that cell phone tower records only provide a general phone location, rather than a specific location. However, trial counsel did cross-examine Fuhrman about the limitations of cell phone tower records; indeed, Fuhrman admitted that the records do not show specific addresses, but rather show that a phone is within a "sector" of a cell phone tower. As to Hampton's phone, Fuhrman's testimony was that the phone was somewhere within a sector, not that it was actually at L.M.'s house at the time of the shooting. Accordingly, we agree with appellate counsel that there would be no arguable merit to a claim that trial counsel was ineffective for failing to adequately cross-examine Fuhrman.

Finally, Hampton contends that his trial counsel was ineffective for failures related to the statements of two police officers, Russell Ewert and Daniel Pierce. Contrary to Hampton's contention, it does not appear as though either officer actually testified at trial. To the extent

Hampton contends that trial counsel should have called the officers as witnesses, we agree with appellate counsel's thorough analysis of the issue.

To the extent Hampton raises issues not addressed in this decision, we conclude that our independent review of the record reveals no other potential issues of arguable merit.

Upon the foregoing, therefore,

IT IS ORDERED that the judgments of conviction are summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Jay Pucek is relieved of further representation of Hampton 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*