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DISTRICT I

August 30, 2022

To:

Hon. Dennis P. Moroney
Reserve Judge
Electronic Notice

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

Christopher P. August
Electronic Notice

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John D. Flynn
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Marque Derrion Cummings 636070
Kettle Moraine Correctional Inst.
P.O. Box 282
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You are hereby notified that the Court has entered the following opinion and order:

2021AP528-CRNM State of Wisconsin v. Marque Derrion Cummings
(L.C. # 2018CF3268)

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).

Marque Derrion Cummings appeals the judgment convicting him of robbery. *See* WIS. STAT. § 943.32(1)(a) (2017-18).¹ Appellate counsel, Christopher P. August, has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 and *Anders v. California*, 386 U.S. 738 (1967). Cummings was advised of his right to file a response and has elected not to do so. Upon consideration of the report and 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 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.

According to the criminal complaint, T.G.—Cummings’ then-girlfriend—went to the police station and reported that Cummings had choked and hit her before stealing her money. As a result of T.G.’s statements to police, Cummings was charged with a single count of robbery.

Pursuant to a plea agreement, Cummings pled guilty to the charged offense. In exchange, the State agreed to recommend two years of initial confinement and two years of extended supervision. The State further agreed to take no position on whether the sentence would run consecutively or concurrently to a sentence that Cummings was serving.

The circuit court accepted Cummings’ plea, ordered him to serve the sentence recommended by the State, and required that the sentence run consecutively. This no-merit appeal follows.

The no-merit report addresses the potential issues of whether Cummings’ plea was knowingly, voluntarily, and intelligently entered, and whether the sentence was the result of an erroneous exercise of discretion. The plea colloquy, when augmented by the plea questionnaire and waiver of rights form, the addendum, and the applicable jury instruction, demonstrates Cummings’ understanding of the information he was entitled to and that his plea was knowingly,

voluntarily, and intelligently entered.² See *State v. Bangert*, 131 Wis. 2d 246, 266-72, 389 N.W.2d 12 (1986); see also *State v. Moerderdorfer*, 141 Wis. 2d 823, 827-28, 416 N.W.2d 627 (Ct. App. 1987). As to sentencing, the record reveals that the circuit court considered and applied the relevant sentencing factors. This court is satisfied that the no-merit report properly analyzes the issues it raises as without 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 discharges appellate counsel of the obligation to represent Cummings further in this appeal.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Assistant State Public Defender Christopher P. August is relieved from further representing Marque Derrion Cummings in this appeal. See WIS. STAT. RULE 809.32(3).

² The copy of the plea questionnaire and waiver of rights forms and addendum in the electronic record do not appear to contain Cummings' signatures. On the plea questionnaire and waiver of rights form, however, there is a handwritten notation by trial counsel that she went over the form with Cummings. During the plea hearing, the circuit court referenced that Cummings' signature was on the back of the document. Cummings confirmed that this was true, that he had read the form, and his attorney had reviewed it with him.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Sheila T. Reiff
Clerk of Court of Appeals