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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

October 4, 2022

To:

Hon. Michelle Ackerman Havas
Circuit Court Judge
Electronic Notice

Winn S. Collins
Electronic Notice

Anna Hodges
Clerk of Circuit Court
Milwaukee County Safety Building
Electronic Notice

Anthony Dwayne Anderson 376240
Redgranite Correctional Inst.
P.O. Box 925
Redgranite, WI 54970-0925

Lauren Jane Breckenfelder
Electronic Notice

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

2021AP1885-CRNM State of Wisconsin v. Anthony Dwayne Anderson
(L.C. # 2018CF5315)

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).

Anthony Dwayne Anderson appeals from judgments of conviction, following guilty pleas, of two counts of armed robbery with the threat of force as a party to the crimes. His appellate counsel, Lauren J. Breckenfelder, has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2019-20)¹ and *Anders v. California*, 386 U.S. 738 (1967). Anderson received a copy of the report, was advised of his right to file a response, and did not respond. We have

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

independently reviewed the record, the no-merit report, and the response, as mandated by *Anders*. We conclude that there are no issues of arguable merit that could be pursued on appeal. We, therefore, summarily affirm.

On November 11, 2018, the State charged Anderson with three counts of armed robbery with the threat of force as a party to a crime. The charges stemmed from robberies that took place between October 25, 2018, and October 29, 2018. The complaint states that on those dates, Anderson and an unknown individual robbed three Milwaukee grocery stores at gunpoint. The complaint further alleged that Anderson was a repeater, having been convicted of armed robbery in Milwaukee County Circuit Court case No. 2006CF762.

Anderson ultimately entered into a plea agreement with the State, whereby he would plead guilty to the first two armed robbery counts. In exchange, the State would recommend to dismiss and read in the third count, dismiss the repeater enhancers, and impose a global sentence of ten to twelve years of initial confinement followed by eight years of extended supervision. The circuit court accepted Anderson's guilty plea, following a colloquy, and sentenced Anderson to six years of initial confinement followed by four years of extended supervision on each count, consecutive to each other and any other sentence. The circuit court also ordered restitution in the amount of \$2,471.46 to one grocery store, and \$702.97 to the other. The circuit court also found Anderson eligible for the earned release program, but ineligible for the challenge incarceration program.

Appellate counsel raises two issues in the no-merit report: (1) whether Anderson's pleas were valid; and (2) whether the circuit court properly exercised its discretion during sentencing.

As to the first issue, we conclude that the plea colloquy, together with the plea questionnaire/waiver of rights form (marked with checkmarks), the addendum (also marked with checkmarks), and the attached jury instructions (also marked with checkmarks), demonstrate Anderson's understanding of the information to which he was entitled and that his plea was knowing, voluntary, and intelligent. See *State v. Bangert*, 131 Wis. 2d 246, 266-72, 389 N.W.2d 12 (1986); see also *State v. Moederndorfer*, 141 Wis. 2d 823, 827-28, 416 N.W.2d 627 (Ct. App. 1987). The circuit court also informed Anderson of the effect of the read-in offense, as recommended by *State v. Straszowski*, 2008 WI 65, ¶97, 310 Wis. 2d 259, 750 N.W.2d 835. Thus, there is no arguable merit to a claim that the circuit court failed to properly conduct a plea colloquy or that Anderson's pleas were anything other than knowing, intelligent, and voluntary.

As to sentencing, our review of the record confirms that the circuit court appropriately exercised its sentencing discretion. See *State v. Gallion*, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197; *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. The circuit court paid particular attention to the gravity of the offenses and the need to protect the public, noting that children were present during one of the robberies. The circuit court also addressed Anderson's character, noting his willingness to participate in a robbery with a friend so soon after his release from a previous armed robbery conviction.

The sentence the circuit court imposed is 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 is 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). There would be no arguable merit to a challenge to the circuit court's sentencing discretion.

Our review of the record discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit report, affirms the conviction, and discharges appellate counsel of the obligation to represent Anderson further in this appeal.

Therefore, upon the foregoing,

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

IT IS FURTHER ORDERED that Attorney Lauren J. Breckenfelder is relieved of further representing Anthony Dwayne Anderson 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