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DISTRICT II

October 5, 2022

To:

Hon. Jennifer Dorow
Circuit Court Judge
Electronic Notice

Monica Paz
Clerk of Circuit Court
Waukesha County Courthouse
Electronic Notice

Daniel Joseph Hellman
Electronic Notice

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Waukesha, WI 53188

Susanna C. Bingen
3615 West National, Apartment 19
Milwaukee, WI 53215

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

2022AP551-CRNM	State of Wisconsin v. Susanna C. Bingen (L.C. #2020CM389)
2022AP552-CRNM	State of Wisconsin v. Susanna C. Bingen (L.C. #2020CM1555)
2022AP553-CRNM	State of Wisconsin v. Susanna C. Bingen (L.C. #2020CM2144)
2022AP554-CRNM	State of Wisconsin v. Susanna C. Bingen (L.C. #2021CM142)
2022AP555-CRNM	State of Wisconsin v. Susanna C. Bingen (L.C. #2021CM181)
2022AP556-CRNM	State of Wisconsin v. Susanna C. Bingen (L.C. #2021CM498)

Before Grogan, 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).

Susanna C. Bingen appeals from six judgments convicting her of six misdemeanor charges. Appellate counsel, Daniel Joseph Hellman, has filed a no-merit report pursuant to *Anders v. California*, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32. Bingen was informed

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.

of her right to respond, but she has not responded. After reviewing the no-merit reports and conducting an independent review of the records as mandated by *Anders*, we conclude that there are no issues of arguable merit that could be pursued on appeal. However, there is a clerical error in the judgment of conviction in appeal No. 2022AP553-CRNM. Therefore, we summarily affirm the judgments but remand to the circuit court to correct the error as directed later in this opinion.

Bingen was charged with twenty misdemeanors in six different cases between February 26, 2020 and March 12, 2021. Pursuant to a plea agreement, Bingen entered guilty or no-contest pleas to six charges. She pled guilty to two counts of bail jumping as well as two counts of disorderly conduct as a repeater, one of which was charged as an act of domestic abuse. She also pled no contest to two counts of battery. In exchange for her pleas, the State dismissed and read in the remaining fourteen charges.

The circuit court sentenced Bingen to nine months in jail for the domestic abuse disorderly conduct conviction and three months in jail for each of the two counts of battery, to be served consecutively to each other and to the jail sentence for disorderly conduct. The circuit court imposed and stayed sentence on the final three convictions in favor of two years of probation to be served consecutively to Bingen's jail sentences. The circuit court imposed and stayed two years of imprisonment, with eighteen months of initial confinement and six months of extended supervision, for disorderly conduct as a repeater. The circuit court also imposed and stayed six months on each count of bail jumping, to be served concurrently to one another but consecutive to the two-year prison sentence.

The no-merit report first addresses whether there would be arguable merit to a claim that Bingen’s guilty and no-contest pleas were not knowingly, intelligently, and voluntarily entered. *See State v. Bangert*, 131 Wis. 2d 246, 260, 389 N.W.2d 12 (1986). Our review of the records and of counsel’s analysis in the no-merit reports satisfies us that the circuit court complied with its obligations for taking pleas pursuant to WIS. STAT. § 971.08, *Bangert*, 131 Wis. 2d at 261-62, and *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906. There would be no arguable merit to a claim that Bingen’s pleas were not knowingly, intelligently, and voluntarily entered.

The no-merit reports next address whether there would be arguable merit to a claim that the circuit court erroneously exercised its sentencing discretion. *See State v. Gallion*, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197. At sentencing, a court must consider the principal objectives of sentencing, including the protection of the community, the punishment and rehabilitation of the defendant, and deterrence to others. *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. In seeking to fulfill the sentencing objectives, the circuit court should consider the gravity of the offense, the character of the offender, the protection of the public, and may consider other additional factors. *See State v. Odom*, 2006 WI App 145, ¶7, 294 Wis. 2d 844, 720 N.W.2d 695. The weight to be given to each factor is committed to the circuit court’s discretion. *See Ziegler*, 289 Wis. 2d 594, ¶23. We will sustain a circuit court’s exercise of sentencing discretion if the sentence imposed was one that a reasonable judge might impose, even if this court or another judge might have imposed a different sentence. *See Odom*, 294 Wis. 2d 844, ¶8. Our review of the records and counsel’s analysis in the no-merit reports

confirms that the circuit court appropriately considered relevant sentencing objectives and factors. There would be no arguable merit to a challenge to the court's sentencing discretion.

Our review of the records discloses a clerical error in the judgment of conviction in appeal No. 2022AP553-CRNM, which pertains to Waukesha County Circuit Court Case No. 2020CM2144. This clerical error was not discussed by counsel. The judgment of conviction incorrectly states that the circuit court imposed the two battery sentences concurrently to each other but consecutively to the jail sentence for disorderly conduct. The sentencing transcript establishes that the circuit court imposed the two battery sentences consecutively to each other and consecutively to the jail sentence for disorderly conduct. We therefore remand the judgment of conviction in appeal No. 2022AP553-CRNM with directions to the circuit court to amend the same. *See* WIS. CT. APP. IOP VI(5)(j) (Nov. 30, 2009).

Our independent review of the records reveals no other potential issues of arguable merit.

Therefore,

IT IS ORDERED that the judgments of conviction are summarily affirmed, and the cause is remanded with directions. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Daniel Joseph Hellman is relieved of further representation of Susanna C. Bingen in these matters. *See* WIS. STAT. RULE 809.32(3).

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

Sheila T. Reiff
Clerk of Court of Appeals