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DISTRICT III

October 11, 2022

To:

Hon. George L. Glonek
Circuit Court Judge
Electronic Notice

Michele Wick
Clerk of Circuit Court
Douglas County Courthouse
Electronic Notice

Winn S. Collins
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Mark A. Fruehauf
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Kathleen A. Lindgren
Electronic Notice

Thure Randolph Mills 578777
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P.O. Box 3310
Oshkosh, WI 54903-3310

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

2020AP1025-CRNM State of Wisconsin v. Thure Randolph Mills
(L. C. No. 2017CF295)

Before Stark, P.J., Hruz and Gill, 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).

Counsel for Thure Mills has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2019-20),¹ concluding that no grounds exist to challenge Mills' convictions for four criminal offenses. Mills was advised of his right to respond to the no-merit report, and he did not file a response. At this court's request, counsel filed a supplemental no-merit report addressing a single issue. Having reviewed the no-merit report and the supplemental no-merit report, and

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

based upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude that there is no arguable merit to any issue that could be raised on appeal. Therefore, we summarily affirm the judgment of conviction. See WIS. STAT. RULE 809.21.

The State filed a criminal complaint charging Mills with one count of child enticement, as a persistent repeater. The complaint alleged that sometime between January 1 and January 11, 2017, Mills asked both a sixteen-year-old girl and a twenty-one-year-old woman to come into his bedroom, where he then asked if they wanted to have sex with him. The sixteen-year-old girl reported that she told Mills she “did not want to have sex,” but Mills “said that kind of meant yes and then had sex with her.” The sixteen-year-old further told police that after Mills finished having sex with her, he began having sex with the twenty-one-year-old woman, and he then performed oral sex on both females.

Based on the allegations in the criminal complaint, the State subsequently filed an Information charging Mills with one count of child enticement, as a persistent repeater, and one count of sexual intercourse with a child age sixteen or older. The State later filed an amended Information charging Mills with the following four counts, each as a repeater: (1) third-degree sexual assault; (2) sexual intercourse with a child age sixteen or older; (3) causing a child between thirteen and eighteen years of age to view or listen to sexual activity; and (4) exposing genitals to a child.

The parties reached a plea agreement, pursuant to which Mills agreed to plead no contest to all four of the charges in the amended Information. Mills also agreed to waive any objection to the timeliness of the amended Information and to the timeliness of the State’s addition of the

repeater enhancers. Mills further agreed to stipulate that he was a repeater, as alleged in each of the four charges. The parties agreed to jointly recommend consecutive sentences totaling seven years' initial confinement followed by eleven years' extended supervision.

The circuit court conducted a plea colloquy, supplemented by a signed plea questionnaire and waiver of rights form. Following the colloquy, the court accepted Mills' no-contest pleas, finding that they were freely, voluntarily and intelligently made. Mills stipulated that there was a factual basis for his pleas, and the court found that the record contained an adequate factual basis to believe that Mills had committed the crimes charged. During a subsequent sentencing hearing, the court followed the parties' joint sentence recommendation and imposed consecutive sentences totaling seven years' initial confinement followed by eleven years' extended supervision.

The no-merit report and the supplemental no-merit report address whether Mills knowingly, intelligently and voluntarily entered his no-contest pleas and whether the circuit court erroneously exercised its sentencing discretion. Having independently reviewed the record, we agree with counsel's description, analysis, and conclusion that these issues lack arguable merit.

We note that during the plea hearing, the circuit court failed to personally advise Mills of the potential immigration consequences of his pleas, as mandated by WIS. STAT. § 971.08(1)(c). The no-merit report asserts, however, that counsel has confirmed that Mills is a United States citizen. Consequently, the court's failure to inform Mills of the potential immigration consequences of his pleas was harmless, as there were no such potential consequences. *See State v. Reyes Fuerte*, 2017 WI 104, ¶¶1-3, 378 Wis. 2d 504, 904 N.W.2d 773 (applying a harmless

error analysis to a court's failure to provide the information required by § 971.08(1)(c)). Any challenge to Mills' pleas on this basis would therefore lack arguable merit.

When reviewing the record, we also noted that a box is checked on the plea questionnaire and waiver of rights form indicating that Mills had consumed medications within twenty-four hours before he signed the form.² The form does not contain any additional information about what medications Mills had taken. During the plea colloquy, the circuit court did not ask about any medications that Mills had taken or inquire whether those medications affected his ability to understand the proceedings. We therefore requested further input from counsel as to whether there would be arguable merit to a claim for plea withdrawal on the grounds that the medications Mills took prior to the plea hearing affected his comprehension in such a way that his pleas were not knowing, intelligent and voluntary.

Counsel subsequently filed a supplemental no-merit report, asserting that there would be no merit to a claim for plea withdrawal on this basis. In the supplemental no-merit report, counsel explains that with Mills' permission, she obtained medical records from the Department of Corrections (DOC), which show that Mills was taking a single medication at the time he entered his pleas. Counsel asserts that based on her review of Mills' medical records, her discussions with DOC medical staff, and her conversations with Mills, she has "found no reason to believe that the medication taken by [Mills] interfered with his ability to enter a knowing, voluntary and intelligent plea." Counsel further asserts that she has obtained Mills' educational and conduct records from the DOC, with Mills' permission, and that those records provide "no

² Mills signed the plea questionnaire and waiver of rights form on June 18, 2018, the same day that he entered his no-contest pleas.

reason to believe that [Mills'] medication affected his ability to comprehend or understand his choice to enter a plea.” Based on the representations in the supplemental no-merit report, we agree with counsel that any claim for plea withdrawal premised on the medication that Mills was taking at the time of the plea hearing would lack arguable merit.

Our independent review of the record discloses no other potential issues for appeal.

Therefore,

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

IT IS FURTHER ORDERED that Attorney Kathleen Lindgren is relieved of further representing Thure Mills 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