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DISTRICT II

November 2, 2022

To:

Hon. Mark T. Slate
Circuit Court Judge
Electronic Notice

Amy Thoma
Clerk of Circuit Court
Green Lake County Courthouse
Electronic Notice

Erica L. Bauer
Electronic Notice

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Talin C. Ross, #667654
Green Bay Correctional Inst.
P.O. Box 19033
Green Bay, WI 54307-9033

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

2021AP425-CRNM State of Wisconsin v. Talin C. Ross (L.C. #2019CF144)

Before Gundrum, P.J., Neubauer and Grogan, 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).

Talin C. Ross appeals the judgment entered after he entered guilty pleas to one count of second-degree sexual assault of a child and three counts of possession of child pornography. His appellate counsel, Eric L. Bauer, filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2019-20) and *Anders v. California*, 386 U.S. 738 (1967).¹ Ross was advised of his right to file a response and has elected not to do so. Upon consideration of the report and an independent

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

review of the record, we 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.

The complaint, which charged Ross with second-degree sexual assault of a child under the age of sixteen, alleged that an anonymous complainant contacted police to report that Ross had sex with the fifteen-year-old victim in this matter. After learning that the police were investigating the allegations, Ross and the victim fled across state lines before ultimately being arrested in Arizona.

After being arrested and charged in this case, Ross sought to have possession of child pornography charges that were pending against him in Fond du Lac County Case No. 2019CF742 consolidated with this matter for purposes of a global resolution. *See* WIS. STAT. § 971.09. The State consented to the consolidation and filed an amended information adding three counts of possession of child pornography to the original second-degree sexual assault of a child charge.

In support of the amended information, the State filed a copy of the complaint from Case No. 2019CF742. The complaint alleged that Ross chatted online with an undercover officer and sent the officer child pornography. In a search of the residence where Ross lived with his parents and girlfriend, police seized numerous items that contained hundreds of images and videos of suspected child pornography. According to the complaint, Ross acknowledged sending child pornography to the undercover officer and said he was talking to the officer in hopes of getting new material from him.

Pursuant to a plea agreement, Ross pled guilty to the four charges in the amended information. In exchange for his pleas, the State agreed to dismiss and read in the remaining

charges in the Fond du Lac County case. The State additionally agreed to recommend at sentencing that Ross serve no more than twelve years of initial confinement on the sexual assault charge and three years of initial confinement on the possession of child pornography charges with those sentences running concurrently to each other. The agreement left the State free to argue as to the length of extended supervision on the sexual assault charge and as to whether the child pornography sentences would run concurrently or consecutively to the sentence on the sexual assault charge.

At sentencing, the State adhered to the plea agreement when it made its recommendation. The circuit court ordered Ross to serve cumulative sentences totaling twenty-four years of initial confinement and thirty-six years of extended supervision.

The comprehensive no-merit report addresses, among other things, whether there would be arguable merit to a claim that Ross's guilty 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 record and of counsel's analysis in the no-merit report satisfies us that the circuit court complied with its obligations for taking guilty 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 Ross's pleas were not knowingly, intelligently, and voluntarily entered.

The no-merit report additionally addresses 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, and determine which objective or objectives are of greatest importance, see *Gallion*, 270 Wis. 2d 535, ¶41. In seeking to fulfill the sentencing objectives, the court should consider primary factors including the gravity of the offense, the character of the offender, and 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 record and counsel's analysis in the no-merit report confirms that the circuit court appropriately considered relevant sentencing objectives and factors and imposed a reasonable sentence. There would be no arguable merit to a challenge to the 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 judgment, and discharges appellate counsel of the obligation to represent Ross further in this appeal.

Therefore,

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

IT IS FURTHER ORDERED that Attorney Eric L. Bauer is relieved of further representation of Talin C. Ross 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