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DISTRICT I

November 22, 2022

To:

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Circuit Court Judge
Electronic Notice

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Clerk of Circuit Court
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Ladarrus Temaine Hoskins 475471
Fox Lake Correctional Inst.
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Fox Lake, WI 53933-0200

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

2019AP2200-CRNM State of Wisconsin v. Ladarrus Temaine Hoskins
(L.C. # 2016CF1509)

Before Brash, C.J., Donald, P.J., and Dugan, 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).

Ladarrus Temaine Hoskins appeals from a judgment, entered after a bench trial, convicting him of armed robbery and attempted armed robbery. His appellate counsel, Marcella De Peters, has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2019-20) and *Anders v. California*, 386 U.S. 738 (1967).¹ Hoskins received a copy of the report, was advised of his right to file a response, and has elected not to do so. Upon consideration of the report and

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

an independent review of the record as required by *Anders*, we summarily affirm the judgment because there is no arguable merit to any issue that could be pursued on appeal. *See* WIS. STAT. RULE 809.21.

The State charged Hoskins with one count of armed robbery and one count of attempted armed robbery. Regarding the armed robbery charge, the complaint alleged that on January 22, 2016, N.C. was walking to work when she saw a man, later determined to be Hoskins, standing at a bus stop. N.C. continued to walk down the street and then heard footsteps coming from behind her. She turned and found the same man she saw at the bus stop a few feet behind her. He was armed with a black semi-automatic handgun and told her to give him her purse. N.C. complied. She described the man as six feet tall, wearing a blue plaid winter hat with ear flaps, a dark blue winter coat, and grey sweatpants.

The complaint additionally alleged that police obtained a surveillance video from a bar located near the bus stop. At approximately 8:45 a.m., a man is seen standing at the bus stop. N.C. walked out of view, and a few seconds later, the man at the bus stop walked in N.C.'s direction. N.C. had a chance to view the video and told the police that the man at the bus stop is the same person who robbed her.

After Hoskins was arrested, he was shown the video and identified himself as the person at the bus stop, but denied being involved in a robbery. When asked why he left the bus stop before the bus arrived, he told the detective that he forgot his backpack at home. When the police told Hoskins he already had his backpack on in the video, he said he did not want to continue talking to them.

For the attempted armed robbery charge, the complaint alleged that on February 1, 2016, M.P. stopped at a café to get a cup of coffee. On her way to the café, she saw a man at a bus stop. M.P. described the man as 5'11" tall, around 150 to 160 pounds, wearing a navy winter hat with ear flaps, a navy sweatshirt, and sweatpants.

While walking away from the café, M.P. noticed the same man she had seen at the bus stop following her. She became concerned when she crossed the street and he was still behind her. He disappeared behind a van. When M.P. got to the front of the van, the man reappeared armed with a black semi-automatic handgun. He pointed the gun at her chest and said, "Give it to me." Instead of turning over her property, M.P. yelled for help, ran back to the café, and called the police.

Video retrieved from a nearby business showed M.P. walking out of the Fuel Café and a man following her. M.P. viewed the video and was certain that the man who was following her was the same man who tried to rob her. After Hoskins was arrested, M.P. identified Hoskins in a line up. Hoskins identified himself as the person wearing a hat with ear flaps walking behind M.P., but denied he attempted to rob her.

The complaint additionally described an uncharged read-in offense involving E.B., which occurred on December 30, 2015. E.B. told police that on that date, when she was leaving work at Meta House, a man approached her with gun and said, "Give me your shit!" E.B. handed over her purse and the man ran away. E.B. described the man as wearing a winter hat with ear flaps.

The police searched Hoskins' residence and located a dark winter hat with ear flaps and a pair of grey sweatpants in the living room. His residence was within one block of where all of the offenses occurred.

Hoskins filed a motion seeking to suppress his identification. He also waived his right to a jury trial. In the interest of efficiency, the parties agreed to have the suppression motion heard in conjunction with the bench trial. The circuit court ultimately denied the suppression motion. The court, subsequently, found Hoskins guilty of the two charges and sentenced him to a total of eighteen years of initial confinement and seven years of extended supervision.

The no-merit report addresses the potential issues of the denial of Hoskins' suppression motion, the sufficiency of the evidence to support the convictions, and the circuit court's exercise of its sentencing discretion. This court is satisfied that the no-merit report properly concludes that the issues it raises are without arguable merit.

Although the no-merit report does not specifically address it, we have considered whether Hoskins could argue that the circuit court erred when it considered the uncharged read-in offense during his sentencing. We have also considered whether the circuit court erred when it allowed, over the defense's objection, both E.B. and the CEO of Meta House—where both E.B. and N.C. worked—to make statements at Hoskins' sentencing.

First, the sentencing court may permissibly consider uncharged and unproven offenses as well as conduct for which a defendant has been acquitted. *See State v. Salas Gayton*, 2016 WI 58, ¶23, 370 Wis. 2d 264, 882 N.W.2d 459. Additionally, the victim of a crime considered at sentencing has the right to make a statement relevant to the sentence before the sentence is pronounced. WIS. STAT. § 972.14(3)(a). The court also may allow any other person to make a statement relevant to the sentence. *Id.*

Here, E.B. testified to the impact that the uncharged crime had on her life. The CEO of Meta House testified to the impact that Hoskins' crimes had on her employees and on her

organization, which helps women recover from substance abuse. She described the fear that her staff felt about coming to work after E.B. and N.C. were robbed and the approximately \$50,000 her organization had spent in new security measures in the wake of Hoskins' crimes. We conclude that there would be no arguable merit to asserting that the circuit court erred when it considered the uncharged offense and allowed the statements to be made at sentencing.

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 Hoskins further in this appeal.

Upon the foregoing, therefore,

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

IT IS FURTHER ORDERED that Attorney Marcella De Peters is relieved of further representation of Ladarrius Temaine Hoskins 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