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DISTRICT I

November 22, 2022

To:

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Circuit Court Judge
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George Christenson
Clerk of Circuit Court
Milwaukee County Safety Building
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Brandin Alexander Green 421349
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You are hereby notified that the Court has entered the following opinion and order:

2020AP879-CRNM State v. Brandin Alexander Green (L.C. # 2016CF3698)

Before Donald, P.J., Dugan and White, 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).

Brandin Alexander Green appeals a judgment convicting him after a jury trial of one count of possession with intent to deliver cocaine in an amount greater than forty grams, as a party to a crime. Appointed appellate counsel, Attorney Marcella De Peters, filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2019-20),¹ and *Anders v. California*, 386 U.S. 738, 744 (1967). Green was informed of his right to respond but he has not done so. After

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

considering the no-merit report and conducting an independent review of the record as mandated by *Anders*, we conclude that there are no issues of arguable merit that Green could raise on appeal. Therefore, we summarily affirm. *See* WIS. STAT. RULE 809.21.

The State charged Green and a co-actor each with one count of possession with intent to deliver cocaine in an amount greater than forty grams, as a party to a crime. Green moved to sever his trial from that of his co-actor, and the circuit court granted the motion. After the cases were severed, Green proceeded to a jury trial. The jury found Green guilty of the charged offense, and the circuit court imposed a sentence consisting of ten years of initial confinement and five years of extended supervision.

The no-merit report discusses whether Green’s conviction was supported by the evidence adduced at trial. When reviewing the sufficiency of the evidence, we look at whether “the evidence, viewed most favorably to the [S]tate and the conviction, is so lacking in probative value and force that no trier of fact, acting reasonably, could have found guilt beyond a reasonable doubt.” *State v. Zimmerman*, 2003 WI App 196, ¶24, 266 Wis. 2d 1003, 669 N.W.2d 762 (citation omitted). “If any possibility exists that the trier of fact could have drawn the appropriate inferences from the evidence adduced at trial to find the requisite guilt, an appellate court may not overturn [the] verdict[.]” *Id.* (citation omitted).

The State elicited testimony from two police officers who conducted a traffic stop of a van displaying suspended license plates. Green was a passenger in the van and his co-actor was driving. The jury viewed video footage from the squad car’s dash camera showing that, before the van was pulled over, Green had been moving around inside the van. The two officers involved in the traffic stop each testified that, when the van was stopped, they smelled an odor of

marijuana coming from inside. A search of the van revealed a pay stub belonging to Green inside the glove compartment and a marijuana blunt on the floor of the passenger side. The officers also found and seized a Ziploc bag containing a substance suspected to be cocaine, concealed inside a fast food bag behind the front seats. Green stipulated that the Wisconsin State Crime Lab tested and weighed the substance that was in the bag, and that testing showed the substance to be cocaine in the amount of 97.85 grams. The jury viewed dash camera video footage in which Green could be heard talking on the phone, saying that he had been pulled over and that there was a “nine piece” in the car. The State elicited testimony from a drug expert who explained, based on her training and experience, that a “nine piece” is nine ounces of cocaine or a quarter kilo. The State’s drug expert also testified that the amount of cocaine recovered from the van would not be consistent with personal use. Based on the evidence adduced at trial, we agree with appellate counsel’s conclusion that any challenge to the sufficiency of the evidence to support the verdict would be without arguable merit.

The no-merit report also addresses whether the circuit court erroneously exercised its sentencing discretion. As explained in the no-merit report, the sentence imposed is well within the legal maximum. The standards for the circuit court and this court on discretionary sentencing issues are well-established and need not be repeated here. *See State v. Gallion*, 2004 WI 42, ¶¶17-51, 270 Wis. 2d 535, 678 N.W.2d 197. In this case, the court considered appropriate factors, did not consider improper factors, and reached a reasonable result. Any argument that the circuit court erroneously exercised its sentencing discretion is without arguable merit on appeal.

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

Upon the foregoing,

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 Marcella De Peters is relieved of any further representation of Green in these matters. *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