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WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688
Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT III

November 22, 2022

To:

Hon. Steven P. Anderson
Circuit Court Judge
Electronic Notice

Lori Gorsegrner
Clerk of Circuit Court
Rusk County Courthouse
Electronic Notice

Winn S. Collins
Electronic Notice

Joseph N. Ehmann
Electronic Notice

Ellen J. Krahn
Electronic Notice

Matthew C. Skamfer
P.O. Box 216
Ladysmith, WI 54848

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

2020AP1459-CRNM State of Wisconsin v. Matthew C. Skamfer (L. C. No. 2015CF63)

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).

Matthew Skamfer appeals from judgments convicting him of substantial battery, criminal damage to property, and disorderly conduct—each as an act of domestic abuse; sentencing him to time served on the battery count; and on the latter two counts following the revocation of his probation. Assistant State Public Defender Ellen Krahn has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2019-20);¹ *Anders v. California*,

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

386 U.S. 738, 744 (1967). The no-merit report sets forth the procedural history of the case and addresses Skamfer's pleas and sentences. Skamfer has filed a series of responses to the no-merit report, to which Krahn has filed a supplemental report. Having independently reviewed the entire record, as well as the no-merit report, responses, and supplemental no-merit report, we conclude that counsel will be allowed to withdraw, and the judgments of conviction shall be summarily affirmed. *See* WIS. STAT. RULE 809.21.

The charges stemmed from an altercation during which Skamfer repeatedly punched his sister (with whom he shared a residence), took her cell phone from her, and struck her with the phone. His sister suffered multiple facial injuries as a result of the assault, including bleeding in her left eye, and her phone was broken. A jury convicted Skamfer of all three charges, but the circuit court vacated the convictions and granted Skamfer a new trial based upon the violation of Skamfer's right to judicial substitution.

Skamfer then agreed to plead no contest to the three charges in the Information in exchange for a joint recommendation that he be sentenced to time served. The circuit court conducted a colloquy, referencing Skamfer's plea questionnaire, to ascertain that he understood the nature of the charges and the constitutional rights he would be waiving by entering the pleas. After further verifying that the facts in the complaint supported the charges, the court accepted the pleas as knowingly, intelligently, and voluntarily made. The court imposed a sentence of one and one-half years' initial confinement followed by two years' extended supervision on the battery count, with 783 days of sentence credit. The court also ordered three years' probation on the property damage count and two years' probation on the disorderly conduct count, both to run concurrently to the extended supervision on the battery count.

The Division of Hearings and Appeals subsequently revoked Skamfer's probation. The circuit court then imposed concurrent terms of nine months of jail time on the property damage count and ninety days of jail time on the disorderly conduct count, with 283 days of sentence credit. The sentences were discharged before this appeal was filed.

Skamfer now raises a series of issues related to his original trial, including claims of ineffective assistance of trial counsel, and he asserts that the convictions based upon his pleas were barred by double jeopardy. Additionally, he contends that his current attorney provided ineffective assistance by failing to raise a postconviction issue that was "clearly stronger" than the substitution issue that won him a new trial, and that she has a conflict of interest based upon his allegations that prior attorneys appointed through the Office of the State Public Defender provided ineffective assistance.

First, we agree with counsel's analysis and conclusion that any challenge to the pleas and sentences would lack arguable merit. The record reveals no flaw in the plea colloquy, Skamfer does not allege that he misunderstood any of the charges or his constitutional rights, and the sentences were well within the applicable penalty ranges.

As to Skamfer's additional issues, any potential errors related to Skamfer's original trial were cured by the order vacating his original convictions. Jeopardy did not attach under the continuous proceeding doctrine. *See State v. Meier*, 60 Wis. 2d 452, 461-62, 210 N.W.2d 685 (1973). Therefore, neither postconviction counsel nor current counsel provided ineffective assistance by failing to raise a double jeopardy claim, and current counsel has no conflict of interest.

Our independent review of the record discloses no other potential issues for appeal. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

Upon the foregoing,

IT IS ORDERED that the judgments of conviction are summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Assistant State Public Defender Ellen Krahn is relieved of any further representation of Matthew Skamfer in this matter pursuant to 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