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DISTRICT I

December 28, 2022

To:

Hon. Mark A. Sanders
Circuit Court Judge
Electronic Notice

George Christenson
Clerk of Circuit Court
Milwaukee County Safety Building
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Vicki Zick
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Les Paul Henderson 543666
New Lisbon Correctional Inst.
P.O. Box 2000
New Lisbon, WI 53950-2000

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

2021AP782-CRNM State of Wisconsin v. Les Paul Henderson (L.C. # 2019CF329)

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).

Les Paul Henderson appeals the judgment entered after he pled guilty to possessing a firearm as a felon and to bail jumping. His appellate counsel, Vicki Zick, filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2019-20) and *Anders v. California*, 386 U.S. 738 (1967).¹ Henderson was advised of his right to file a response and has elected not to do so. Upon consideration of the report and an independent review of the record, we conclude that the

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

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.

According to the complaint, police officers, acting on an anonymous tip that a person was pacing on a porch with a gun, responded to the specified location. Upon arrival, the officers recognized Henderson when he opened a second floor window in an apartment. Henderson agreed to go outside and speak to the officers. F.C., who rented the apartment that Henderson was in, allowed the officers to enter and check for firearms. F.C. told police that she owned a handgun and showed the officers where it was located. While checking the northeast bedroom, an officer located a submachine gun in a closet. This gun matched the description provided by the tipster. The officer additionally found identifying information for Henderson in the bedroom. F.C. told the officer she had never seen the gun before and did not know it was in the closet.

When questioned, Henderson admitted that he stayed in the apartment and slept there. Because he was a convicted felon, the State charged Henderson with possessing a firearm as a felon. Additionally, because Henderson was released on bond in three pending cases, the State initially charged him with three counts of felony bail jumping. The charges were subsequently amended to include additional charges of possessing a firearm as a felon and felony bail jumping, for a total of six counts.

Pursuant to a plea agreement, Henderson pled guilty to one count of possessing a firearm as a felon and one count of bail jumping. In exchange, the State agreed to move the court to dismiss and read in the remaining charges. The State also agreed to recommend a four-year sentence, bifurcated as two years of initial confinement and two years of extended supervision, without specifying whether the sentence should run concurrently or consecutively with any other

sentence Henderson was serving. The circuit court accepted Henderson's pleas and sentenced him as follows: count one, possessing a firearm as a felon, eighteen months of initial confinement and twenty-four months of extended supervision, consecutive to any other sentence; and count two, bail jumping, eighteen months of initial confinement and twenty-four months of extended supervision, to run concurrently with count one. This no-merit appeal follows.

The no-merit report addresses whether there would be arguable merit to a claim that Henderson'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 Henderson'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 Henderson further in this appeal.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Vicki Zick is relieved from further representing Les Paul Henderson in this appeal. *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