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DISTRICT III

December 29, 2022

To:

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Circuit Court Judge
Electronic Notice

Michelle Weisenberger
Clerk of Circuit Court
Trempealeau County Courthouse
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Jeffrey Dwayne Sanders 626596
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You are hereby notified that the Court has entered the following opinion and order:

2020AP147-CRNM State of Wisconsin v. Jeffrey Dwayne Sanders
(L. C. No. 2016CF35)

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).

Jeffrey Sanders appeals a judgment convicting him of numerous crimes. His appellate counsel, Dennis Schertz, filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2019-20),¹ and *Anders v. California*, 386 U.S. 738 (1967). Sanders filed a response. After reviewing the record, counsel's report, and Sanders' response, we conclude that there are no issues of arguable merit for appeal. Therefore, we summarily affirm the judgment. *See* WIS. STAT. RULE 809.21.

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

Sanders was convicted, following a jury trial, of multiple crimes. The charges stemmed from numerous allegations of violent and sexually assaultive behavior committed against Sanders' significant other and her children. At sentencing, the circuit court imposed aggregate sentences totaling forty-four years' initial confinement followed by twenty-five years' extended supervision. This no-merit appeal follows.

The no-merit report first addresses whether there was sufficient evidence to finding Sanders guilty at trial. When reviewing the sufficiency of the evidence, we may not substitute our judgment for that of the jury "unless 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." See *State v. Poellinger*, 153 Wis. 2d 493, 507, 451 N.W.2d 752 (1990). Our review of the trial transcripts persuades us that the State produced ample evidence, in the form of witness testimony, to convict Sanders of his crimes. The jury, in weighing the testimony, found the witnesses credible. See *id.* at 503 (it is the jury's function to decide the credibility of witnesses). We agree with counsel that a challenge to the sufficiency of the evidence would lack arguable merit.

The no-merit report also addresses whether the circuit court properly exercised its discretion at sentencing. The record reveals that the court's sentencing decision had a "rational and explainable basis." See *State v. Gallion*, 2004 WI 42, ¶76, 270 Wis. 2d 535, 678 N.W.2d 197 (citation omitted). In fashioning Sanders' sentences, the court considered the seriousness of the offenses, Sanders' character, and the need for punishment. See *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. Under the circumstances of the case, which were aggravated by the terror Sanders imposed on the victims and his lack of remorse, the sentence imposed does not "shock public sentiment and violate the judgment of reasonable people

concerning what is right and proper.” See *Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). We agree with counsel that any challenge to Sanders’ sentences would lack arguable merit.

The no-merit report also addresses whether Sanders received the effective assistance of trial counsel. A defendant receives constitutionally ineffective assistance of trial counsel if counsel performs deficiently and counsel’s deficient performance prejudices the defense. *Strickland v. Washington*, 466 U.S. 668, 687 (1984). We agree with the no-merit report’s conclusion that the record reveals no prejudicial errors by Sanders’ trial counsel. Trial counsel effectively advocated on behalf of his client. There would be no arguable merit to a claim that Sanders received ineffective assistance of trial counsel.

Sanders’ response asserts that the circuit court and the prosecutor committed misconduct, that he did not receive a fair trial, that his trial counsel was ineffective, and that the jury was racially biased. We have reviewed Sanders’ arguments, and, upon an independent review of the record, we conclude that his arguments do not have arguable merit.

Our independent review of the record does not disclose any potentially meritorious issue for appeal. Because we conclude that there would be no arguable merit to any issue that could be raised on appeal, we accept the no-merit report and relieve Attorney Dennis Schertz of further representation in this appeal.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Dennis Schertz is relieved of further representation of Jeffrey Sanders 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