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DISTRICT II

February 1, 2023

To:

Hon. Rebecca L. Persick
Circuit Court Judge
Electronic Notice

Chris Koenig
Clerk of Circuit Court
Sheboygan County Courthouse
Electronic Notice

Peter Anderson
Electronic Notice

Winn S. Collins
Electronic Notice

Joel Urmanski
Electronic Notice

Alexander W. Killebrew
Columbia Correctional Center
P.O. Box 900
Portage, WI 53901-0900

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

2020AP760-CRNM State of Wisconsin v. Alexander W. Killebrew
(L.C. #2018CF653)

Before Gundrum, P.J., Neubauer and Grogan, 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).

Alexander W. Killebrew appeals a judgment of conviction for disorderly conduct as a habitual criminal, contrary to WIS. STAT. §§ 947.01 and 939.62(1)(a) (2017-18).¹ Killebrew's appointed appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 and *Anders v. California*, 386 U.S. 738 (1967). Killebrew was advised of his right to file a response but has not done so. Upon consideration of the no-merit report and an independent review of the

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

record as mandated by *Anders* and RULE 809.32, we conclude there is no arguable merit to any issue that could be raised on appeal. We therefore summarily affirm the judgment. *See* WIS. STAT. RULE 809.21(1).

Killebrew was charged with disorderly conduct as an act of domestic abuse, with the habitual criminal and domestic abuse repeater penalty enhancers. The criminal complaint alleged that police suspected Killebrew was present in his residence with his girlfriend in violation of his extended supervision rules based upon a report by neighbors that there was a female “screaming bloody murder” from the apartment. Officers breached the apartment and discovered the girlfriend hiding in an attic. She appeared to have fresh and developing injuries, but she claimed the noises the neighbors heard were from a movie. Police checked the small DVD player at the residence, which did not appear capable of amplifying the volume to the point where neighbors could have heard the sound from it. Officers took Killebrew into custody and provided *Miranda*² warnings, after which he refused to answer questions.

Killebrew entered into a plea agreement with the State under which he agreed to plead no contest to an amended charge that removed the domestic abuse repeater allegation but maintained the penalty enhancer for habitual criminality. Following a colloquy, the circuit court accepted his plea and proceeded to sentencing. Pursuant to the plea agreement, the State recommended one year of initial confinement and one year of extended supervision, consecutive to any other sentence. The defense requested a concurrent sentence. After discussing the nature

² *See Miranda v. Arizona*, 384 U.S. 436 (1966).

of the offense and Killebrew's character, the court determined the State's recommendation was "reasonable" and "appropriate," and it imposed a sentence consistent with that recommendation.

The no-merit report addresses whether there is any nonfrivolous issue that could be raised regarding whether Killebrew's plea was knowing, intelligent, and voluntary; whether there was a sufficient factual basis for his plea; whether the circuit court erroneously exercised its sentencing discretion; the proper amount of sentence credit; and whether the record would support any claim of ineffective assistance of counsel. Our review of the record satisfies us that the no-merit report thoroughly analyzes these issues and properly concludes any challenge based upon them would lack arguable merit. Our review of the record discloses no other potentially meritorious issues for appeal.

Based on the foregoing,

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

IT IS FURTHER ORDERED that Attorney Peter Anderson is relieved of responsibility for further representing Killebrew 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