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DISTRICT I

March 14, 2023

To:

Hon. Jeffrey A. Wagner
Circuit Court Judge
Electronic Notice

Anna Hodges
Clerk of Circuit Court
Milwaukee County Safety Building
Electronic Notice

Winn S. Collins
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Pamela Moorshead
Electronic Notice

Anthony Cortas Sims 535082
Racine Correctional Inst.
P.O. Box 900
Sturtevant, WI 53177-0900

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

2021AP2060-CRNM State of Wisconsin v. Anthony Cortas Sims (L.C. # 2020CF1893)

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).

Anthony Cortas Sims appeals a judgment of conviction for first-degree recklessly endangering safety with use of a dangerous weapon, possession of a firearm contrary to an injunction, and felony bail jumping. Attorney Pamela Moorshead, appointed counsel for Sims, has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2019-20)¹ and *Anders v. California*, 386 U.S. 738 (1967). Sims was sent a copy of the report and has not filed a response. Upon consideration of the report and an independent review of the record as mandated

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

by *Anders*, we conclude that there is no arguable merit to any issue that could be raised on appeal. Accordingly, we summarily affirm. *See* WIS. STAT. RULE 809.21.

Sims was initially charged with six offenses. All six charges related to a domestic violence incident in which Sims was alleged to have severely beaten and injured the victim. According to the criminal complaint, the incident involved a number of aggravating circumstances. For example, it was alleged that Sims placed a handgun to the victim's lips and that, when the victim refused to open her mouth, Sims began to beat her head with the gun.

Pursuant to a plea agreement, Sims pled guilty to charges for first-degree recklessly endangering safety with use of a dangerous weapon, possession of a firearm contrary to an injunction, and felony bail jumping. The three remaining charges were dismissed and read in for sentencing purposes. The circuit court sentenced Sims as follows: on the charge for recklessly endangering safety, an eight-year term of imprisonment consisting of five years of initial confinement and three years of extended supervision; on the charge for possession of a firearm contrary to an injunction, a seven-year term of imprisonment consisting of five years of initial confinement and two years of extended supervision, consecutive to Sims's sentence for recklessly endangering safety; and on the felony bail jumping charge, a six-year term of imprisonment consisting of three years of initial confinement and three years of extended supervision, concurrent to Sims's other sentences.

The no-merit report addresses whether Sims's guilty pleas were knowing, intelligent, and voluntary. We agree with counsel that there is no arguable merit to this issue. The circuit court's plea colloquy sufficiently complied with the requirements of WIS. STAT. § 971.08 and *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906, relating to the nature of

the charges, the rights Sims was waiving, and other matters. Additionally, as the no-merit report states, the circuit court established a sufficient factual basis for Sims's guilty pleas based on the complaint allegations. We see no other arguable basis upon which Sims might seek plea withdrawal.

The no-merit report also addresses whether the circuit court properly exercised its sentencing discretion. We agree with counsel that there is no arguable merit to this issue. The circuit court considered the required sentencing factors along with other relevant factors. *See State v. Gallion*, 2004 WI 42, ¶¶37-49, 270 Wis. 2d 535, 678 N.W.2d 197. The court did not consider any improper factors. Sims's sentences were within the maximum allowed and, under the circumstances, Sims's sentences could not be challenged as unduly harsh or so excessive as to shock public sentiment. *See Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). We see no other basis upon which Sims might challenge his sentences.²

Based upon our independent review of the record, we have found no other arguable basis to pursue further appellate proceedings. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

Therefore,

IT IS ORDERED that the circuit court's judgment is summarily affirmed. *See* WIS. STAT. RULE 809.21.

² We note that some of the circuit court's sentencing remarks arguably created ambiguity relating to the intended length of Sims's sentences. However, the judgment of conviction resolves any such ambiguity in Sims's favor. Accordingly, we see no arguable basis for Sims to pursue postconviction relief relating to the intended length of his sentences.

IT IS FURTHER ORDERED that Attorney Pamela Moorshead is relieved of any further representation of Anthony Cortas Sims in this matter.

IT IS FURTHER ORDERED that this summary disposition order will not published.

Sheila T. Reiff
Clerk of Court of Appeals