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DISTRICT IV

July 7, 2023

To:

Hon. Ellen K. Berz
Circuit Court Judge
Electronic Notice

Jefren E. Olsen
Electronic Notice

Carlo Esqueda
Clerk of Circuit Court
Dane County Courthouse
Electronic Notice

Darrell D. Rodgers TDCJ #00670901
MAC Stringfellow
1200 FM 655
Rosharon, TX 77583

Winn S. Collins
Electronic Notice

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

2022AP471-CRNM State of Wisconsin v. Darrell D. Rodgers (L.C. # 2017CF1551)

Before Blanchard, P.J., Graham, and Nashold, 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).

Attorney Jefren Olsen, appointed counsel for Darrell Rodgers, has filed a no-merit report seeking to withdraw as appellate counsel pursuant to WIS. STAT. RULE 809.32 (2021-22)¹ and *Anders v. California*, 386 U.S. 738 (1967). Rodgers 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, we

¹ All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

conclude that there is no arguable merit to any issue that could be raised on appeal. Accordingly, we affirm.

Rodgers was charged with four counts of uttering a forgery based on allegations that he cashed four forged checks. Under a plea agreement, he pled guilty to two of the counts, and the other two counts were dismissed and read in for sentencing purposes. Pursuant to the parties' joint sentencing recommendation, the circuit court imposed eight months of jail time on each count to which Rodgers pled guilty, and the court deemed his sentence to be a time-served sentence with sentence credit applied.

The no-merit report first addresses whether Rodgers' 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 with Rodgers, including the court's references to the plea questionnaire and waiver of rights form, 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 constitutional rights that Rodgers was waiving, and other matters. We see no other nonfrivolous basis upon which Rodgers might seek plea withdrawal.

The no-merit report discusses whether Rodgers could pursue claims for violations of his constitutional right to a speedy trial and statutory time limits under the Interstate Agreement on Detainers. We agree with counsel's assessment that there is no arguable basis to pursue these claims, which are subject to the guilty plea waiver rule and were waived by Rodgers' guilty pleas. See *Foster v. State*, 70 Wis. 2d 12, 19-20, 233 N.W.2d 411 (1975) (speedy trial); *State v. Thomas*, 2013 WI App 78, ¶13, 348 Wis. 2d 699, 834 N.W.2d 425 (Interstate Agreement on Detainers).

Finally, the no-merit report addresses whether Rodgers could challenge the circuit court’s exercise of its sentencing discretion. We agree with counsel that it would be frivolous for Rodgers to challenge his sentence. Although the court did not discuss the primary sentencing factors, *see State v. Gallion*, 2004 WI 42, ¶¶40-43, 270 Wis. 2d 535, 678 N.W.2d 197, the court adopted the parties’ joint sentencing recommendation. Accordingly, Rodgers cannot now challenge his sentence. *See State v. Scherreiks*, 153 Wis. 2d 510, 518, 451 N.W.2d 759 (Ct. App. 1989) (“Because defendant affirmatively approved the sentence, he cannot attack it on appeal.”).

Our review of the record discloses no other potential issues for appeal.

Therefore,

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

IT IS FURTHER ORDERED that Attorney Jefren Olsen is relieved of any further representation of Darrell Rodgers in this matter. *See* WIS. STAT. RULE 809.32(3).

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

Samuel A. Christensen
Clerk of Court of Appeals