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DISTRICT II

September 6, 2023

To:

Hon. Timothy D. Boyle
Circuit Court Judge
Electronic Notice

Amy Vanderhoef
Clerk of Circuit Court
Racine County Courthouse
Electronic Notice

Lauren Jane Breckenfelder
Electronic Notice

Winn S. Collins
Electronic Notice

Kazon C. Grantz
10831 W. St. Martins Road
Franklin, WI 53132

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

2022AP519-CRNM State of Wisconsin v. Kazon C. Grantz (L.C. #2019CF1095)

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).

Kazon C. Grantz appeals from a judgment, entered following no contest pleas, convicting him of possession with intent to deliver cocaine and possession with intent to deliver THC. His appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2021-22)¹ and *Anders v. California*, 386 U.S. 738 (1967). Grantz did not file a response. Upon consideration of the report and an independent review of the record, we conclude that the judgment may be

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

summarily affirmed because there are no issues with arguable merit for appeal. *See* WIS. STAT. RULE 809.21.

According to the complaint, police stopped Grantz for speeding. While one officer wrote Grantz a ticket for speeding, another officer conducted a K-9 sniff around Grantz's vehicle. The K-9 alerted, which indicated the presence of narcotics. An officer searched Grantz's person and found two baggies of cocaine. A search of Grantz's vehicle revealed THC, heroin, methamphetamine, and multiple items of drug paraphernalia. Grantz was arrested and provided a *Mirandized*² statement, during which he told police that he lived in his vehicle, that everything inside the vehicle was his, and that the drugs and paraphernalia were for personal use. The State charged Grantz with possession with intent to deliver cocaine (1-5 grams), possession of narcotic drugs, possession of methamphetamine, possession with intent to deliver THC (under 200 grams), and possession of drug paraphernalia.

Trial counsel filed a suppression motion, challenging the legality of the stop and search of Grantz's vehicle. The motion alleged that the stop of Grantz's vehicle was unduly prolonged in order to accomplish the K-9 search and that the K-9 did not appear to clearly alert to the presence of narcotics. Following an evidentiary hearing, during which the officers testified and the circuit court watched body camera videos of the encounter, the court found that: officers had reasonable suspicion to stop Grantz's vehicle because he was driving seventy-three miles-per-hour in a fifty-five mile-per-hour zone; it took ten-to-twelve minutes for the citation to be issued; during that time videos confirmed that one officer was checking information and actively issuing

² *Miranda v. Arizona*, 384 U.S. 436, 444 (1966).

a citation while another officer conducted a K-9 sniff around Grantz's vehicle; and the K-9 alerted to the presence of narcotics. The court concluded that the officers did not extend the stop in any way to accommodate the K-9 sniff and that the stop, sniff, and ensuing search were legal. Based on that, the court denied the suppression motion.

In exchange for Grantz's pleas to possession with intent to deliver cocaine and possession with intent to deliver THC, the State agreed to dismiss and read in the remaining counts and recommend what amounted to a total sentence of three years' initial confinement and three years' extended supervision, stayed for three years of probation with ninety days' condition time. The circuit court imposed and stayed concurrent prison sentences³ and placed Grantz on probation for two years with imposed and stayed condition time. This no-merit appeal follows.

The no-merit report addresses potential issues of: whether the circuit court erred by denying Grantz's suppression motion; whether Grantz's pleas were knowingly, voluntarily, and intelligently entered; and whether the court properly exercised its discretion at sentencing. Upon reviewing the record, we agree with counsel's analysis and conclusion that there is no arguable basis to pursue any of these issues. We comment briefly on the validity of the pleas and the court's sentencing discretion.

We first agree with counsel's analysis and conclusion that any challenge to the validity of Grantz's pleas would lack arguable merit. *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

³ The circuit court imposed and stayed two years' initial confinement and two years' extended supervision on the cocaine count and eighteen months' initial confinement and two years' extended supervision on the THC count, concurrent to the cocaine count.

satisfies us that the circuit court complied with its obligations for taking Grantz's pleas. *See* WIS. STAT. § 971.08; *Bangert*, 131 Wis. 2d at 261-62; *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906.

With regard to the circuit court's sentencing discretion, our review of the record confirms that the court appropriately considered the relevant sentencing objectives and factors. *See State v. Odom*, 2006 WI App 145, ¶7, 294 Wis. 2d 844, 720 N.W.2d 695; *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. The resulting sentence was within the maximum authorized by law. *See State v. Scaccio*, 2000 WI App 265, ¶18, 240 Wis. 2d 95, 622 N.W.2d 449. The sentence was not so excessive so as to shock the public's sentiment. *See Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). Therefore, there would be no arguable merit to a challenge to the court's sentencing discretion.

Our independent review of the record discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit report, affirms the judgment of conviction, and discharges appellate counsel of the obligation to represent Grantz further in this appeal.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Lauren Jane Breckenfelder is relieved of further representation of Kazon C. Grantz in this appeal. *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