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DISTRICT II

October 25, 2023

To:

Hon. Jason A. Rossell
Circuit Court Judge
Electronic Notice

Patricia Sommer
Electronic Notice

Rebecca Matoska-Mentink
Clerk of Circuit Court
Kenosha County Courthouse
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Jennifer L. Vandermeuse
Electronic Notice

Ryan J.M. Hoff
417 Carla Ct.
Silver Lake, WI 53170

Michael D. Graveley
Electronic Notice

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

2021AP632-CRNM State of Wisconsin v. Ryan J.M. Hoff (L.C. #2019CF327)

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).

Ryan J.M. Hoff appeals from a judgment convicting him of second-degree recklessly endangering safety. 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). Hoff was sent a copy of the report, was advised of his right to file a response, and has not done so. Upon consideration

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

of the report and an independent review of the record, we conclude there are no issues with arguable merit for appeal. We summarily affirm. *See* WIS. STAT. RULE 809.21.

Hoff, then twenty-two years old, pled guilty to second-degree recklessly endangering safety after an incident where he grabbed the steering wheel while his mother was driving, causing the car to cross into the oncoming traffic lane two or three times. Three other charges were dismissed and read in.² The circuit court ordered a presentence investigation (PSI) and later sentenced Hoff to eighteen months of initial confinement and four years of extended supervision. The court denied Hoff's subsequent petition for sentence modification pursuant to WIS. STAT. § 973.195 on the ground that reducing the sentence would frustrate the court's original intent in imposing the sentence. This no-merit appeal follows.

The no-merit report addresses whether there is any basis for plea withdrawal. The circuit court conducted a standard plea colloquy that sufficiently complied with the requirements of *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906, and WIS. STAT. § 971.08 relating to the nature of the charge, the maximum penalties Hoff was facing, the constitutional rights Hoff was waiving, the direct consequences of Hoff's plea to the felony charge, and other matters. In addition, Hoff provided the court with a signed plea questionnaire. Hoff indicated to the court that he understood the information explained on that form, and nothing in the record or no-merit report leads us to conclude otherwise. *See State v. Moederndorfer*, 141 Wis. 2d 823, 827-28, 416 N.W.2d 627 (Ct. App. 1987). The court found the criminal complaint provided a

² The dismissed and read-in charges were battery, disorderly conduct, and criminal damage to property, all three as acts of domestic abuse.

factual basis for acceptance of the plea, and the record shows no other ground to withdraw the plea. We agree with counsel that there is no arguable merit to this issue.

The no-merit report also addresses whether the court erroneously exercised its sentencing discretion. In imposing sentence, the court considered the seriousness of the offenses, Hoff's character, and the need to protect the public. See *State v. Gallion*, 2004 WI 42, ¶¶40-44, 270 Wis. 2d 535, 678 N.W.2d 197. Hoff had the opportunity, through his counsel, to comment on the PSI. He also had the opportunity to address the court directly, and he did so prior to the court's imposition of sentence. The court explained in its order denying Hoff's sentence modification petition that it had sentenced Hoff to prison primarily for punishment and deterrence, and we note that the sentence imposed was for a shorter term than the maximum permitted by statute. Under the circumstances, it cannot reasonably be argued that Hoff's sentence is so excessive as to shock public sentiment. See *Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). In this case, the court considered appropriate factors, did not consider improper factors, and reached a reasonable result. We agree with counsel that there is no arguable merit to this issue.

Upon our independent review of the record, we have found no other arguable basis for reversing the judgment of conviction. See *State v. Allen*, 2010 WI 89, ¶¶81-82, 328 Wis. 2d 1, 786 N.W.2d 124. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

Accordingly,

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

IT IS FURTHER ORDERED that Attorney Patricia Sommer is relieved of any further representation of Ryan J.M. Hoff in this matter pursuant to 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