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DISTRICT I

January 9, 2024

To:

Hon. Milton L. Childs Sr.
Circuit Court Judge
Electronic Notice

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

Brian Patrick Mullins
Electronic Notice

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Willie Joey King Jr. 581727
Wisconsin Secure Program Facility
P.O. Box 1000
Boscobel, WI 53805-1000

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

2022AP1670-CRNM State of Wisconsin v. Willie Joey King, Jr. (L.C. # 2020CF2108)

Before White, C.J., Donald, P.J., and Colón, 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).

Willie Joey King, Jr., appeals the judgment entered after he pled guilty to battery by a prisoner and assault by a prisoner, both as a party to the crimes and with the use of a dangerous weapon. His appellate counsel, Brian P. Mullins, filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2021-22) and *Anders v. California*, 386 U.S. 738 (1967).¹ King was advised of his right to file a response and has elected not to do so. Upon consideration of the report and an independent review of the record, as mandated by *Anders*, we conclude that the judgment may

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

be summarily affirmed because there is no arguable merit to any issue that could be raised on appeal. *See* WIS. STAT. RULE 809.21.

The State charged King with battery by a prisoner with use of a dangerous weapon, assault by a prisoner with use of a dangerous weapon, and attempted escape as a party to the crimes. The following details are taken from the complaint, which served as a factual basis for King's pleas. D.J., a corrections officer at the Milwaukee Secure Detention Facility (MSDF), opened a cell door to collect meal trays from King and Phillip Lee. D.J. reported that Lee grabbed his shoulder, and King pulled him into the cell. Lee and King took D.J.'s handcuffs, keys, pepper spray, and radio. One of the men struck D.J. with a sock containing a padlock, and Lee punched him in the ribs.

Several corrections officers eventually intervened and arrested King and Lee. D.J. suffered a head wound that required five staples and bruising on the left side of his body.

Lee subsequently admitted to police that he carried D.J. into the cell and punched him. Lee said that King was the one who struck D.J. in the head with the sock. According to Lee, King took D.J.'s keys and opened the cell doors for other inmates with the goal of creating a distraction to allow for an escape. Lee also said King took D.J.'s pepper spray and threatened to spray corrections officers when they approached him.

Lee relayed that King brought up the plan for the attack the day before it occurred and told approximately eleven other inmates about it. King said sixty inmates in Chicago recently

escaped in the wake of the “riots,”² and they decided to “team up to try and get out.” Lee said King “got numerous people to go along with the plan.”

During his interview with police, King admitted that he planned to riot on his floor at MSDF “and every other floor they could.” King informed other inmates he “was going to get the keys, unlock their cells and if they choose to join then they join.” King acknowledged he grabbed D.J., brought him into the cell, beat him, and took his keys and pepper spray. King also admitted he prevented D.J. from leaving the cell.

King said he stuffed a lock in a sock but denied hitting D.J. with anything other than his fists. However, he acknowledged it was possible that D.J. was hit in the head with the lock.

The complaint described video footage of the incident that showed King closing the cell door and acting as a lookout while Lee and D.J. wrestled in the cell. The video then showed King leaving the cell and using D.J.’s keys to unlock two other cells occupied by inmates.

Pursuant to a plea agreement, King pled guilty to the battery and assault charges. The State agreed to dismiss and read in the charge of attempted escape. The State also agreed to recommend a total sentence of ten years of initial confinement and six years of extended supervision, consecutive to a revocation sentence King was serving. The negotiations left King free to argue for any sentence.

² The no-merit report explains that this incident occurred one week after George Floyd was killed.

The circuit court accepted King's pleas and imposed concurrent sentences of eight years of initial confinement and three years of extended supervision to run consecutively to the revocation sentence. This no-merit appeal follows.

The no-merit report addresses whether there would be arguable merit to a claim that King's guilty pleas were not knowingly, voluntarily, and intelligently entered. *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 satisfies us that the circuit court complied with its obligations for taking a guilty plea, pursuant to WIS. STAT. § 971.08, *Bangert*, 131 Wis. 2d at 261-62, and *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906. There would be no arguable merit to a claim that King's pleas were not knowingly, intelligently, and voluntarily entered.

The no-merit report additionally addresses whether there would be arguable merit to a claim that the circuit court erroneously exercised its sentencing discretion. *See State v. Gallion*, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197. At sentencing, a court must consider the principal objectives of sentencing, including the protection of the community, the punishment and rehabilitation of the defendant, and deterrence to others, *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76, and determine which objective or objectives are of greatest importance, *see Gallion*, 270 Wis. 2d 535, ¶41. The weight to be given to each factor is committed to the circuit court's discretion. *See Ziegler*, 289 Wis. 2d 594, ¶23. We will sustain a circuit court's exercise of sentencing discretion if the sentence imposed was one that a reasonable judge might impose, even if this court or another judge might have imposed a different sentence. *See State v. Odom*, 2006 WI App 145, ¶8, 294 Wis. 2d 844, 720 N.W.2d 695. Our review of the record and counsel's analysis in the no-merit report confirms that the

circuit court appropriately considered relevant sentencing objectives and factors, and imposed reasonable sentences. There would be no arguable merit to a challenge to the court's sentencing discretion.

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

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Brian P. Mullins is relieved from further representing Willie Joey King, Jr., in this appeal. *See* WIS. STAT. RULE 809.32(3).

Samuel A. Christensen
Clerk of Court of Appeals