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DISTRICT I

March 5, 2024

To:

Hon. Glenn H. Yamahiro
Circuit Court Judge
Electronic Notice

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

Christopher P. August
Electronic Notice

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Brent Jason Dale 690572
Waupun Correctional Inst.
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Waupun, WI 53963-0351

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

2023AP1343-CRNM	State of Wisconsin v. Brent Jason Dale (L.C. # 2020CF3236)
2023AP1344-CRNM	State of Wisconsin v. Brent Jason Dale (L.C. # 2021CF2139)

Before Donald, P.J., Geenen and Colón, 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).

In these consolidated matters, Brent Jason Dale appeals from judgments convicting him of first-degree reckless homicide with use of a dangerous weapon and attempted solicitation of first-degree intentional homicide. His appellate counsel, Christopher P. August, filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2021-22)¹ and *Anders v. California*, 386 U.S. 738 (1967). Dale received a copy of the report, was advised of his right to file a response, and did not do so. We have independently reviewed the records and the no-merit report as mandated by

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

Anders. We conclude that there is no issue of arguable merit that could be pursued on appeal. We therefore summarily affirm.

Milwaukee County Circuit Court Case No. 2020CF3236

The State charged Dale with first-degree reckless homicide with use of a dangerous weapon and possessing a firearm as a felon in Milwaukee County Circuit Court Case No. 2020CF3236. According to the complaint in that case, Dale shot and killed the victim following a fight at a gas station. The shooting was captured on video. When police officers attempted to interview Dale, who was in the vicinity of the crime scene and who shared some of the identifying characteristics of the shooter, he fled on foot. Following a short chase, police apprehended Dale and found a gun in the backpack he was carrying.

The complaint alleged that the casings recovered at the crime scene appeared to have been fired from Dale's gun. Additionally, the victim's father, who witnessed the shooting, identified Dale in a photo array. As support for the charge of possessing a firearm as a felon, the complaint stated that Dale was previously convicted of the felony charge of fleeing or eluding an officer.

Milwaukee County Circuit Court Case No. 2021CF2139

While Dale was in custody in connection with Case No. 2020CF3236, the State charged him with attempted solicitation of first-degree intentional homicide in Milwaukee County Circuit Court Case No. 2021CF2139. The complaint describes a letter allegedly written by Dale while he was incarcerated, which was intercepted by a correctional officer. In the letter, Dale solicited

the murder of the victim's father in Case No. 2020CF3236. A fingerprint examiner found Dale's fingerprints on the letter.

The circuit court subsequently granted the State's joinder motion. Pursuant to plea negotiations, Dale pled guilty to first-degree reckless homicide while armed in Case No. 2020CF3236. Dale also pled guilty to attempted solicitation of first-degree intentional homicide in Case No. 2021CF2139. The State moved the circuit court to dismiss and read-in the charge of possessing a firearm as a felon. The negotiations left both parties free to argue as to the length of Dale's sentences.

The circuit court accepted Dale's pleas and sentenced him as follows: Case No. 2020CF3236, twenty-seven years of initial confinement followed by thirteen years of extended supervision; and Case No. 2021CF2139, three years of initial confinement followed by two years of extended supervision. The sentences were ordered to run consecutively. This no-merit appeal follows.

The no-merit report addresses whether there would be arguable merit to a claim that Dale did not knowingly, voluntarily, and intelligently enter his guilty pleas. *See State v. Bangert*, 131 Wis. 2d 246, 260, 389 N.W.2d 12 (1986). Our review of the records and of counsel's analysis in the no-merit report satisfies us that the circuit court complied with its obligations for taking the guilty pleas, 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 on this basis.

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, *Gallion*, 270 Wis. 2d 535, ¶41. The weight to be given to each factor is committed to the circuit court’s discretion. *Ziegler*, 289 Wis. 2d 594, ¶23.

On review, we “search the record to determine whether in the exercise of proper discretion the sentence imposed can be sustained.” *McCleary v. State*, 49 Wis. 2d 263, 282, 182 N.W.2d 512 (1971). Here, the circuit court characterized this case as “another example of the senseless gun violence in this city.” The court reflected on the aggravated nature of the homicide, which stemmed from an earlier physical altercation where Dale and his accomplices attacked the victim “like a pack of wolves.” The court further noted that Dale, a felon, was not legally permitted to have a gun at the time. Regarding Dale’s attempt to have the victim’s father killed, the court remarked: “It wasn’t enough to shoot [the victim] and kill him. Now you got to take the whole family out?”

In terms of character, the circuit court described Dale as “a relatively articulate and young man. I think there is certainly a basis to expect more here.” The court accounted for some of Dale’s life experiences that had “damaged” him and gave him credit for taking responsibility for the crimes. The court additionally considered Dale’s remorse, his mental health issues, and criminal history. The 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 records discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit report, affirms the convictions, and discharges appellate counsel of the obligation to represent Dale further in these appeals.

Upon the foregoing reasons,

IT IS ORDERED that the judgments are summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Christopher P. August is relieved of further representation of Brent Jason Dale in these matters. *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