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DISTRICT III

April 23, 2024

To:

Hon. Gregory J. Strasser
Circuit Court Judge
Electronic Notice

Kelly Schremp
Clerk of Circuit Court
Marathon County Courthouse
Electronic Notice

Jeremiah W. Meyer-O'Day
Electronic Notice

Jennifer L. Vandermeuse
Electronic Notice

Allen E. Jamroz 397297
Jackson Correctional Inst.
P.O. Box 233
Black River Falls, WI 54615-0233

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

2022AP1255-CRNM State of Wisconsin v. Allen E. Jamroz (L. C. No. 2017CF6)

Before Stark, P.J., Hruz and Gill, 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).

Counsel for Allen Jamroz has filed a no-merit report concluding that no grounds exist to challenge Jamroz's convictions for second-degree sexual assault by use of force and false imprisonment. Jamroz was informed of his right to file a response to the no-merit report, and he has not responded. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude there is no arguable merit to any issue that could be

raised on appeal. Therefore, we summarily affirm the judgment of conviction. *See* WIS. STAT. RULE 809.21 (2021-22).¹

The State charged Jamroz with kidnapping, second-degree sexual assault by use of force, false imprisonment, and misdemeanor battery. The charges arose from allegations that Jamroz shocked Wendy² with a “homemade taser,” restrained her with duct tape, sexually assaulted her, and sealed her in a wooden box in his basement. Jamroz moved to suppress his statements made to law enforcement at a hospital, claiming he was not given his *Miranda*³ rights. Jamroz withdrew this motion after an audio recording confirmed that law enforcement had advised Jamroz of his *Miranda* rights, after which Jamroz acknowledged those rights and spoke with law enforcement. Jamroz also moved to suppress his statements made to law enforcement while he was incarcerated at the Marathon County Jail, claiming that his request for an attorney was not honored. The parties, however, stipulated at a motion hearing that any statements made at that time would not be admissible at trial, although the State reserved the right to argue for their admissibility “for impeachment purposes should the defendant testify.”

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

² Pursuant to the policy underlying WIS. STAT. RULE 809.86(4), we use a pseudonym instead of the victim’s name.

³ *Miranda v. Arizona*, 384 U.S. 436 (1966).

After initially entering not-guilty pleas, Jamroz subsequently sought to enter pleas of not guilty by reason of mental disease or defect (NGI). An examining psychologist's report did not support the NGI pleas, and Jamroz ultimately agreed to a plea deal.⁴

In exchange for his no-contest pleas to false imprisonment and second-degree sexual assault by use of force, the State agreed to recommend that the circuit court dismiss and read in the remaining counts. The State also agreed to cap its sentence recommendation at a total of fifteen years of initial confinement followed by ten years of extended supervision. Jamroz completed a plea questionnaire and waiver of rights form, and, after a colloquy, the court accepted his no-contest pleas.

A presentence investigation report (PSI) was ordered, and Jamroz challenged six statements made by Wendy, one statement made to the PSI author by Wendy's mother, and the PSI author's conclusion that Jamroz would have continued to sexually assault Wendy or "even killed her" had she not escaped. Jamroz argued that these statements were "inaccurate, unproven, and/or speculative." The circuit court stated that it would not rely upon any of the challenged statements. Jamroz's counsel nevertheless moved the court to amend the PSI to prevent the possibility that the Department of Corrections would "erroneously rely upon these unproven allegations when determining [Jamroz's] security classification." The parties ultimately stipulated to striking the challenged statements from the PSI, and, consistent with that stipulation, the court ordered the statements stricken and disavowed.

⁴ We note that the circuit court granted Jamroz's motion to suppress statements he made to the examining psychologist.

On sentencing, the circuit court considered proper sentencing factors, placing particular emphasis on “punishment of the defendant, protection of the community, and deterring others.” See *State v. Gallion*, 2004 WI 42, ¶¶39-46, 270 Wis. 2d 535, 678 N.W.2d 197. Out of a maximum potential sentence of forty-six years, the court ultimately imposed concurrent sentences resulting in a twenty-year term, consisting of thirteen years of initial confinement followed by seven years of extended supervision.

The no-merit report addresses whether Jamroz knowingly, intelligently, and voluntarily entered his no-contest pleas; whether the circuit court properly exercised its sentencing discretion; and whether Jamroz’s trial counsel was ineffective by not pursuing an involuntary intoxication defense based on Jamroz’s claim that his prescribed medications “may have induced him” to commit the present offenses. Upon reviewing the record, we agree with counsel’s description, analysis, and conclusion that none of these issues has arguable merit. The no-merit report sets forth an adequate discussion of these potential issues to support the no-merit conclusion, and we need not address them further. Our independent review of the record discloses no other potential issue for appeal.

Therefore,

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

IT IS FURTHER ORDERED that Attorney Jeremiah W. Meyer-O’Day is relieved of his obligation to further represent Allen Jamroz 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