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DISTRICT II

July 17, 2024

To:

Hon. Wynne P. Laufenberg
Circuit Court Judge
Electronic Notice

Amy Vanderhoef
Clerk of Circuit Court
Racine County Courthouse
Electronic Notice

Jeffrey W. Jensen
Electronic Notice

Jennifer L. Vandermeuse
Electronic Notice

Jonathan C. Ohara #482878
New Lisbon Correctional Inst.
P.O. Box 2000
New Lisbon, WI 53950-2000

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

2023AP2210-CRNM State of Wisconsin v. Jonathan C. Ohara (L.C. #2020CF744)

Before Gundrum, P.J., Grogan and Lazar, 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).

Jeffrey W. Jensen, appointed counsel for Jonathan C. Ohara,¹ filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2021-22)² and *Anders v. California*, 386 U.S. 738 (1967). Counsel provided Ohara with a copy of the report, and both counsel and this court advised him

¹ We note that various documents in the record before us, including the Information and Judgment of Conviction, refer to the defendant as "Jonathan C. Ohara." No-merit counsel uses the spelling "O'Hara" to refer to the defendant; however, we rely on the spelling used in the record documents when referring to the defendant.

² All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

of his right to file a response. Ohara has not responded. We conclude that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. After our independent review of the record, we conclude there is no arguable merit to any issue that could be raised on appeal.

Ohara pled guilty to three counts of possession of child pornography. As part of the plea agreement, eight other counts were dismissed and read in, including seven counts of possession of child pornography. The court imposed an aggregate sentence of eleven years of initial confinement and thirteen years of extended supervision.

The no-merit report discusses whether the record would support withdrawal of Ohara's pleas. The plea colloquy 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 charges, the potential penalties and immigration consequences, the rights Ohara was waiving, and other matters. Ohara indicated he fully understood the consequences of his pleas, and Ohara was satisfied with counsel's representation of him. The record shows no other ground to withdraw the plea. There is no arguable merit to this issue.

The no-merit report addresses whether the court erroneously exercised its sentencing discretion. The standards for the circuit court and this court on sentencing issues are well-established and need not be repeated here. *See State v. Gallion*, 2004 WI 42, ¶¶17-51, 270 Wis. 2d 535, 678 N.W.2d 197. In this case, the court considered appropriate factors, did not consider improper factors, and reached a reasonable result. The record shows no other grounds from which we could conclude that the court erroneously exercised its sentencing discretion. There is no arguable merit to this issue.

Finally, the sentence is not excessive or too harsh. Ohara faced a potential of seventy-five years of total imprisonment, but was sentenced to only twenty-four. Under the circumstances, it cannot reasonably be argued that Ohara's sentence is excessive, much less so excessive as to shock public sentiment. *See Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). There is no arguable merit to this issue.

Our review of the record discloses no other potential issues for appeal.

Therefore,

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 Jeffrey W. Jensen is relieved of further representation of Ohara 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