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DISTRICT I

July 23, 2024

To:

Hon. Jean M. Kies
Circuit Court Judge
Electronic Notice

Jennifer L. Vandermeuse
Electronic Notice

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

Edgar I. Carmona 708147
Fox Lake Correctional Inst.
P.O. Box 147
Fox Lake, WI 53933

Marcella De Peters
Electronic Notice

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

2023AP2027-CRNM State of Wisconsin v. Edgar I. Carmona (L.C. # 2021CF4270)

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

Edgar I. Carmona appeals from a judgment of conviction entered upon his guilty pleas to one count of third-degree sexual assault and one count of strangulation and suffocation. Carmona's appellate counsel, Marcella De Peters, has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2021-22)¹ and *Anders v. California*, 386 U.S. 738 (1967). Carmona received a copy of the report, was advised of his right to file a response, and has not responded.

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

We have independently reviewed the record and the no-merit report, as mandated by *Anders*, and we conclude that there are no issues of arguable merit that could be pursued on appeal. We therefore summarily affirm. *See* WIS. STAT. RULE 809.21.

In October 2021, the State charged Carmona with five crimes. As to the victim S.T., the State charged Carmona with one count of attempted second-degree sexual assault and one count of strangulation and suffocation. As to the victim D.M., the State charged Carmona with two counts of second-degree sexual assault and one count of strangulation and suffocation. Ultimately, Carmona pled guilty to an amended charge of third-degree sexual assault and one count of strangulation and suffocation, both as to S.T. The remaining charges were dismissed and read in. The circuit court conducted a colloquy with Carmona and accepted his pleas. The circuit court sentenced Carmona to a global sentence of eight years of initial confinement and seven years of extended supervision.

Appellate counsel's no-merit report addresses two issues: (1) whether the circuit court properly accepted Carmona's guilty pleas; and (2) whether the circuit court erroneously exercised its sentencing discretion.

With regard to Carmona's guilty pleas, our review of the record—including the plea questionnaire/waiver of rights form, the addendum, the jury instructions initialed by Carmona, and the plea hearing transcript—confirms that the circuit court complied with its obligations for taking guilty pleas, pursuant to WIS. STAT. § 971.08, *State v. Bangert*, 131 Wis. 2d 246, 261-62, 389 N.W.2d 12 (1986), and *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906. These obligations exist specifically to help ensure the validity of any plea. We thus agree with appellate counsel's conclusion in the no-merit report that there is no arguable merit to

seeking plea withdrawal based on a claim that Carmona's pleas were anything other than knowing, intelligent, and voluntary.

With regard to the circuit court's sentencing decision, we note that sentencing is a matter for the circuit court's discretion. *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. It must also determine which objective or objectives are of greatest importance. *Gallion*, 270 Wis. 2d 535, ¶41. In seeking to fulfill the sentencing objectives, the circuit court should consider several primary factors, including the gravity of the offense, the character of the offender, and the protection of the public, and it may consider additional factors. *State v. Odom*, 2006 WI App 145, ¶7, 294 Wis. 2d 844, 720 N.W.2d 695. The weight to be given to each factor is committed to the circuit court's discretion. *Id.*

Our review of the record confirms that the circuit court appropriately considered the relevant sentencing objectives and factors. The resulting sentences were within the potential maximums authorized by law, *see State v. Scaccio*, 2000 WI App 265, ¶18, 240 Wis. 2d 95, 622 N.W.2d 449, and are not so excessive so as to shock the public's sentiment, *see Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975).

Our independent review of the record reveals no other potential issues of arguable merit.

Upon the foregoing therefore,

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

IT IS FURTHER ORDERED that Attorney Marcella De Peters is relieved of further representation of Edgar I. Carmona 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