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DISTRICT I

Amended as to lower court case number April 8, 2013
April 5, 2013

To:

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

2012AP2573-CRNM State of Wisconsin v. Joseph L. Cobbins (L.C. #2011CF6096)

Before Curley, P.J., Fine and Brennan, JJ.

Joseph L. Cobbins appeals a judgment convicting him of one count of armed robbery, as a party to a crime. Attorney Donna Odrzywolski filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2011-12),¹ and *Anders v. California*, 386 U.S. 738, 744 (1967). Cobbins was informed of his right to respond, but he has not responded. After considering the no-merit report and after conducting an independent review of the record, we

¹ All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

agree with counsel's assessment that there are no arguably meritorious appellate issues. Therefore, we summarily affirm the judgment of conviction. *See* WIS. STAT. RULE 809.21.

The no-merit report first addresses whether there would be arguable merit to an appellate challenge to Cobbins's guilty plea. The plea colloquy complied in all respects with the requirements of WIS. STAT. § 971.08, and *State v. Bangert*, 131 Wis.2d 246, 266-72, 389 N.W.2d 12 (1986). The prosecutor explained the plea agreement on the record and Cobbins acknowledged that he understood it. The circuit court addressed whether Cobbins understood the elements of the charge against him, including the meaning of being charged as a party to a crime, the maximum penalties he faced, and the constitutional rights he would be waiving by entering a plea. The circuit court also ascertained that Cobbins had reviewed a plea questionnaire and waiver-of-rights form with his attorney. *See State v. Moederndorfer*, 141 Wis.2d 823, 827-28, 416 N.W.2d 627 (Ct. App. 1987). Cobbins acknowledged that the complaint provided a sufficient factual basis for the plea. We therefore conclude that there would be no arguable merit to an appellate challenge involving the plea.

The no-merit report next addresses whether there would be arguable merit to a claim that the sentence imposed on Cobbins was a misuse of discretion. The circuit court sentenced Cobbins to twenty years of imprisonment, with ten years of initial confinement and ten years of extended supervision. In framing its sentence, the circuit court considered Cobbins's criminal history, his rehabilitative needs, the need to protect the public and other factors relevant to the sentencing determination. *See State v. Gallion*, 2004 WI 42, ¶¶39-46, 270 Wis.2d 535, 678 N.W.2d 197. The circuit court placed particular emphasis on the danger that Cobbins presented to society, noting that Cobbins's actions during the armed robbery were particularly aggravated. The circuit court explained its application of the various sentencing considerations in accordance

with the framework set forth in *Gallion*, and reached a reasoned and reasonable result. Therefore, we conclude that there would be no arguable merit to an appellate claim that the circuit court misused its sentencing discretion.

Our independent review of the record reveals no potential issues for appeal. Therefore, we affirm the judgment of conviction and relieve Attorney Odrzywolski of further representation of Cobbins in this matter.

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

IT IS FURTHER ORDERED that Attorney Donna Odrzywolski is relieved of any further representation of Cobbins in this matter. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals