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DISTRICT II

April 24, 2013

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

2013AP378-CRNM State of Wisconsin v. Lorenzo D. Curry (L.C. # 2011CF515)

Before Brown, C.J., Neubauer, P.J., and Gundrum, J.

Lorenzo D. Curry appeals from a judgment convicting him of conspiracy to commit the manufacture or delivery of more than fifty grams of heroin. Curry's appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2011-12)¹ and *Anders v. California*, 386 U.S. 738 (1967). Curry received a copy of the report, was advised of his right to file a response, and has elected not to do so. After reviewing the record and counsel's report, we conclude that there

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

are no issues with arguable merit for appeal. Therefore, we summarily affirm the judgment. *See* WIS. STAT. RULE 809.21.

The no-merit report addresses the following appellate issues: (1) whether Curry's guilty plea was knowingly, intelligently, and voluntarily entered; (2) whether there was a sufficient factual basis for the plea; (3) whether the circuit court erroneously exercised its discretion at sentencing; and (4) whether Curry was afforded effective assistance of counsel

With respect to the issues involving the entry of the guilty plea, the record shows that the circuit court engaged in a colloquy with Curry that satisfied the requirements of WIS. STAT. § 971.08(1)(a), *State v. Bangert*, 131 Wis. 2d 246, 266-72, 389 N.W.2d 12 (1986), and *State v. Hampton*, 2004 WI 107, ¶¶33, 38, 274 Wis. 2d 379, 683 N.W.2d 14. A signed plea questionnaire and waiver of rights form was entered into the record. Furthermore, Curry admitted at the plea hearing that the criminal complaint was basically accurate and agreed, through his attorney, that the testimony of the preliminary hearing established a factual basis for the plea. The admission, taken together with the evidence at the preliminary hearing, establishes a sufficient factual basis for the plea. Accordingly, we agree with counsel that any challenge to the entry of Curry's guilty plea would lack arguable merit.

With respect to the sentence imposed, the record reveals that the circuit court's sentencing decision had a "rational and explainable basis." *State v. Gallion*, 2004 WI 42, ¶76, 270 Wis. 2d 535, 678 N.W.2d 197. In imposing a sentence of fourteen years of imprisonment, the court considered the seriousness of the offense, Curry's character, and the need to protect the public. *See State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. Under the circumstances of the case, which were aggravated by Curry's criminal history, the sentence does

not “shock public sentiment and violate the judgment of reasonable people concerning what is right and proper.” *Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). Accordingly, we agree with counsel that a challenge to Curry’s sentence would lack arguable merit.

Finally, with respect to whether Curry was afforded effective assistance of counsel, there is nothing in the record to suggest that Curry’s trial counsel was ineffective. Consequently, this court is satisfied that the no-merit report properly analyzes this issue as without merit, and this court will not discuss it further.

Our independent review of the record does not disclose any potentially meritorious issue for appeal. Because we conclude that there would be no arguable merit to any issue that could be raised on appeal, we accept the no-merit report and relieve Attorney Mark A. Schoenfeldt of further representation in this matter.

Upon the foregoing reasons,

IT IS ORDERED that the judgment of the circuit court is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Mark A. Schoenfeldt is relieved of further representation of Curry in this matter.

Diane M. Fremgen
Clerk of Court of Appeals