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DISTRICT II

January 13, 2016

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

2015AP2094-CRNM State of Wisconsin v. Anthony L. Meisenburg (L.C. # 2014CF21)

Before Neubauer, C.J., Gundrum and Hagedorn, JJ.

Anthony L. Meisenburg appeals from a judgment convicting him of second-degree sexual assault of a child. Meisenburg's appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2013-14)¹ and *Anders v. California*, 386 U.S. 738 (1967). Meisenburg 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 are no issues with arguable merit for appeal. Therefore, we summarily affirm the judgment. WIS. STAT. RULE 809.21.

¹ All references to the Wisconsin Statutes are to the 2013-14 version.

In January 2014, the State filed a complaint against Meisenburg for first-degree sexual assault of a child and repeated sexual assault of the same child. The charges stemmed from a series of incidents involving his then eight-year-old daughter. According to the complaint, Meisenburg touched and licked his daughter's vagina on multiple occasions and tried to put his erect penis in her vagina on one other occasion.

Eventually, Meisenburg entered an *Alford*² plea to a reduced charge of second-degree sexual assault of a child. The charge of repeated sexual assault of the same child was dismissed and read in. The circuit court sentenced Meisenburg to fifteen years of initial confinement followed by fifteen years of extended supervision. This no-merit appeal follows.

The no-merit report first addresses whether Meisenburg's *Alford* plea was knowingly, voluntarily, and intelligently entered. The record shows that the circuit court engaged in a colloquy with Meisenburg that satisfied the applicable requirements of WIS. STAT. § 971.08(1) and *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906.³ In addition, a signed plea questionnaire and waiver of rights form was entered into the record. Finally, the court explained the effect of the *Alford* plea, and there was strong evidence of guilt to support it from the stipulated facts in the complaint. We agree with counsel that any challenge to the entry of Meisenburg's *Alford* plea would lack arguable merit.

The no-merit report also addresses whether the circuit court properly exercised its discretion at sentencing. The record reveals that the court's sentencing decision had a “rational

² See *North Carolina v. Alford*, 400 U.S. 25 (1970).

³ The no-merit report also notes that “Meisenburg has not alleged any lack of understanding of any of the areas of inquiry relevant to the entry of his plea.”

and explainable basis.” *State v. Gallion*, 2004 WI 42, ¶76, 270 Wis. 2d 535, 678 N.W.2d 197 (citation omitted). The court adequately discussed the facts and factors relevant to Meisenburg’s sentence. In fashioning its sentence, the court considered the seriousness of the offense, Meisenburg’s character, and the need to protect the public. *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 Meisenburg’s relationship with the victim, 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 the circuit court’s decision at sentencing would lack arguable merit.

Our independent review of the record does not disclose any potentially meritorious issue for appeal.⁴ 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 Angela D. Henderson 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 Angela D. Henderson is relieved of further representation of Meisenburg in this matter.

Diane M. Fremgen
Clerk of Court of Appeals

⁴ Meisenburg did file motions to suppress his statements to police and physical evidence seized by police. However, he elected not to litigate them prior to entering his *Alford* plea. Thus, we deem those issues abandoned and will not discuss them further. See *State v. Woods*, 144 Wis. 2d 710, 716, 424 N.W.2d 730 (Ct. App. 1988) (motion made but not pursued is abandoned).