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DISTRICT II

May 11, 2016

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

2015AP2004-CRNM State of Wisconsin v. William A. Hook (L.C. # 2014CF97)

Before Neubauer, C.J., Reilly, P.J., and Hagedorn, J.

William A. Hook appeals from a judgment convicting him of first-degree reckless homicide. Hook'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). Hook 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

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

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.

In November 2014, Hook pled guilty to first-degree reckless homicide, contrary to WIS. STAT. § 940.02(2)(a). The charge stemmed from allegations that he delivered heroin to a friend, who subsequently overdosed and died from it.² The circuit court sentenced Hook to five years of initial confinement followed by five years of extended supervision. This no-merit appeal follows.

The no-merit report addresses whether Hook's guilty plea was knowingly, voluntarily, and intelligently entered. The record shows that the circuit court engaged in a colloquy with Hook 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. The court referred to that form when discussing the rights Hook was giving up by entering his plea. This was permissible under *State v. Moederndorfer*, 141 Wis. 2d 823, 827-29, 416 N.W.2d 627 (Ct. App. 1987). We agree with counsel that a challenge to the entry of Hook's guilty 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 The State originally charged Hook with delivery of heroin. It amended the charge to first-degree reckless homicide upon learning the results of the autopsy report regarding the victim's death.

³ The circuit court did not specify what it relied on when finding a factual basis to support Hook's plea. However, our review of the record persuades us that a factual basis existed. Moreover, Hook indicated at the plea hearing that if the case went to trial, he was confident that the State could prove him guilty.

and explainable basis.” *State v. Gallion*, 2004 WI 42, ¶76, 270 Wis. 2d 535, 678 N.W.2d 197 (citation omitted). In making its decision, the court considered the seriousness of the offense, Hook’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. As the sentence was well within the statutory maximum, it cannot be considered excessive. *See State v. Daniels*, 117 Wis. 2d 9, 22, 343 N.W.2d 411 (Ct. App. 1983). Accordingly, we agree with counsel that a challenge to Hook’s sentence would lack arguable merit.

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 Erica L. Bauer 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 Erica L. Bauer is relieved of further representation of Hook in this matter.

Diane M. Fremgen
Clerk of Court of Appeals