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DISTRICT II

October 19, 2016

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

2016AP200-CRNM State of Wisconsin v. Roger A. Minter (L.C. #2014CF630)

Before Reilly, P.J., Gundrum and Hagedorn, JJ.

Roger A. Minter appeals from a judgment convicting him of second-degree reckless homicide. Minter'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). Minter received a copy of the report, was advised of his right to file a response, and has elected not to do so. After reviewing

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

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.

Minter was convicted following a no contest plea to second-degree reckless homicide.² According to the complaint, Minter and the victim, Andrew Hansen, had an argument at Minter's residence. The two were separated, and Hansen fled to a barn on Minter's property. Minter chased Hansen, kicked the barn door in, and "choke slam[ed]" Hansen's head into an air conditioning unit inside. Hansen went into a fetal position, and Minter stomped on his body. A friend of Hansen's subsequently took him to a motel where he complained of a headache and later died. The cause of death was blunt force trauma to his head consistent with Minter's attack.

For his actions, the circuit court sentenced Minter to twelve years of initial confinement followed by ten years of extended supervision. This no-merit appeal follows.

The no-merit report first addresses whether the circuit court conducted a proper plea colloquy. The record shows that the court engaged in a colloquy with Minter 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. In addition, a signed plea questionnaire and waiver of rights form was entered into the record. The court referred to that form during its colloquy. We agree with counsel that a challenge to the entry of Minter's no contest plea based on the court's colloquy would lack arguable merit.

² An additional count of aggravated battery was dismissed and read in.

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 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, Minter'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 the nature of the crime and Minter's prior criminal record, the sentence imposed 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). We agree with counsel that a challenge to Minter's sentence would lack arguable merit.

Finally, the no-merit report addresses whether there was a sufficient basis to convict Minter of homicide, given that Hansen could have potentially survived had he received medical treatment immediately. We are satisfied that there was a sufficient basis to convict Minter and that an argument to the contrary would lack arguable merit. As noted in the report, a defendant's actions need only be a substantial factor in causing a victim's death, and such actions need not be the sole cause of death. *State v. Below*, 2011 WI App 64, ¶27, 333 Wis. 2d 690, 799 N.W.2d 95. Here, there is no dispute that Minter's attack of Hansen was a substantial factor in causing Hansen's death.

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 Ana L. Babcock 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 Ana L. Babcock is relieved of further
representation of Minter in this matter.

Diane M. Fremgen
Clerk of Court of Appeals