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DISTRICT I

October 26, 2016

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

2016AP352-CRNM State of Wisconsin v. Antoine D. Young (L.C. # 2015CM954)

Before Brash, J.¹

Antoine D. Young appeals a judgment convicting him of misdemeanor disorderly conduct. Attorney Leon W. Todd, III, filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32, and *Anders v. California*, 386 U.S. 738, 744 (1967). Young was informed of his right to file a response, but he has not done so. After considering the

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(f) (2013-14). All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

no-merit report and conducting an independent review of the record, we conclude that there are no issues of arguable merit that Young could raise on appeal. Therefore, we summarily affirm the judgment of conviction. *See* WIS. STAT. RULE 809.21.

The no-merit report first addresses whether there would be any basis for arguing that Young did not knowingly, intelligently, and voluntarily enter his guilty plea. In order to ensure that a defendant is knowingly, intelligently, and voluntarily waiving the right to trial by entering a guilty plea, the circuit court must conduct a colloquy with a defendant to ascertain that the defendant understands the elements of the crimes to which he is pleading guilty, the constitutional rights he is waiving by entering the plea, and the maximum potential penalties that could be imposed. *See* WIS. STAT. § 971.08, and *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906. Although “not intended to eliminate the need for the court to make a record demonstrating the defendant’s understanding of the particular information contained therein,” the circuit court may refer to a plea colloquy and waiver-of-rights form, which the defendant has acknowledged reviewing and understanding, as part of its inquiry, reducing “the extent and degree of the colloquy otherwise required between the trial court and the defendant.” *State v. Hoppe*, 2009 WI 41, ¶42, 317 Wis. 2d 161, 765 N.W.2d 794 (citation and quotation marks omitted).

During the plea hearing, the circuit court explained the elements of the crime to Young on the record and informed him of the maximum penalties he faced by entering a plea. The circuit court personally reviewed with Young some of the constitutional rights he was waiving, and ascertained that Young had reviewed the plea questionnaire and waiver-of-rights form with his lawyer, which listed all of the constitutional rights Young was waiving by entering a plea.

The circuit court also ascertained that Young understood the form and had discussed it with his lawyer before he signed it.

The circuit court informed Young that if he was not a citizen of the United States of America, he could be deported if he pled guilty. *See State v. Douangmala*, 2002 WI 62, ¶46, 253 Wis. 2d 173, 646 N.W.2d 1. The circuit court explained to Young that it was not required to follow the recommendation of the parties, and it could sentence Young up to the maximum term of imprisonment. *See State v. Hampton*, 2004 WI 107, ¶38, 274 Wis. 2d 379, 683 N.W.2d 14. The circuit court asked Young whether he had reviewed the criminal complaint and whether he admitted the facts alleged in the complaint. Young said he did. The circuit court also asked Young whether he had enough time to review everything with his lawyer, and he said he did. Based on the circuit court's thorough plea colloquy with Young, and Young's review of the plea questionnaire and waiver-of-rights form, there would be no arguable merit to an appellate challenge to the plea.

The no-merit report next addresses whether there would be arguable merit to a claim that the circuit court misused its discretion when it sentenced Young to forty-five days in jail. The circuit court took into account the seriousness of the crime and the effect of Young's actions on the casino and its employees. The circuit court considered as mitigating Young's minimal prior record and the significant collateral consequences he suffered as a result of his actions, including failing a semester of college coursework because he was in jail. The circuit court considered appropriate factors in deciding what length of sentence to impose and explained its application of the various sentencing guidelines in accordance with the framework set forth in *State v. Gallion*, 2004 WI 42, ¶¶39-46, 270 Wis. 2d 535, 678 N.W.2d 197. Therefore, there would be no arguable merit to an appellate challenge to the sentence.

Our independent review of the record also reveals no arguable basis for reversing the judgment of conviction. Therefore, we affirm the judgment and relieve Attorney Leon Todd, III, from further representation of Young.

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

IT IS FURTHER ORDERED that Attorney Leon Todd, III, is relieved from any further representation of Young in this matter. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals