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DISTRICT I

June 12, 2018

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

2017AP580-CRNM State of Wisconsin v. Marsalis W. Templer (L.C. # 2014CF2054)

Before Kessler, P.J., Brennan and Dugan, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Marsalis W. Templer appeals a judgment convicting him after a jury trial of first-degree recklessly endangering safety with use of a dangerous weapon, and discharging a firearm toward a person, both as a party to a crime. Attorney Robert E. Haney, who was appointed to represent Templer, filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE

809.32 (2015-16),¹ and *Anders v. California*, 386 U.S. 738, 744 (1967). Templer was informed of his right to respond to the no-merit report, but he has not responded. After considering the no-merit report and conducting an independent review of the record, we conclude that there are no issues of arguable merit that Templer could raise on appeal.

The no-merit report addresses whether there would be arguable merit to a claim that the evidence was insufficient to support the verdict. When reviewing the sufficiency of the evidence, we look at whether “the evidence, viewed most favorably to the state and the conviction, is so lacking in probative value and force that no trier of fact, acting reasonably, could have found guilt beyond a reasonable doubt.” *State v. Zimmerman*, 2003 WI App 196, ¶24, 266 Wis. 2d 1003, 669 N.W.2d 762 (citation omitted). “If any possibility exists that the trier of fact could have drawn the appropriate inferences from the evidence adduced at trial to find the requisite guilt, an appellate court may not overturn [the] verdict.” *Id.* (citation omitted).

The testimony and other evidence adduced at trial are summarized in the no-merit report. Based on our thorough review of the trial transcripts and viewing the evidence in the light most favorable to the jury’s verdict, we conclude there was sufficient evidence to convict Templer.

The no-merit report addresses whether there would be arguable merit to a claim that the State breached the plea agreement. After Templer was found guilty of the two charges now before this court on appeal, he entered into a plea agreement with the prosecutor to resolve seven other charges pending in three other cases. The agreement provided that in exchange for

¹ All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

Templer's guilty plea to two of the charges in the three other cases, the prosecutor would dismiss and read in five of the charges. The prosecutor also agreed to recommend a total of thirteen years and six months of initial confinement and nine years of extended supervision for all of the convictions, including the two counts now before us that were resolved by jury trial. At the sentencing hearing, the prosecutor fully complied with the agreement. Therefore, there would be no arguable merit to a claim that the prosecutor breached the plea agreement.

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 Templer to an aggregate term of eleven years and nine months of initial confinement and six years of extended supervision. The circuit court considered appropriate factors in deciding the 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.

The no-merit report also addresses whether the circuit court had jurisdiction over Templer. We agree with the report's analysis of this issue and the report's conclusion that the circuit court had jurisdiction over Templer.

Our independent review of the record reveals no arguable basis for reversing the judgment of conviction. Therefore, we affirm the judgment and relieve appellate counsel of further representation of Templer.

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

IT IS FURTHER ORDERED that Attorney Robert E. Haney is relieved of any further representation of Templer in this matter. *See* WIS. STAT. RULE 809.32(3).

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Sheila T. Reiff
Clerk of Court of Appeals