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DISTRICT III

April 9, 2019

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

2017AP2446-CRNM State of Wisconsin v. Deante C. Chambers
(L. C. No. 2015CF1667)

Before Stark, P.J., Hruz and Seidl, 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).

Counsel for Deante Chambers has filed a no-merit report, concluding there is no basis to challenge Chambers' conviction for delivery of heroin. Chambers was advised of his right to respond and has not responded. Upon our independent review of the record as mandated by

Anders v. California, 386 U.S. 738 (1967), we conclude there is no merit to any issue that could be raised on appeal, and we summarily affirm. See WIS. STAT. RULE 809.21 (2017-18).¹

This matter stemmed from the overdose death of a twenty-one-year-old Green Bay woman after she injected heroin delivered by Chambers. After waiving his *Miranda* rights,² Chambers allegedly admitted to being from Milwaukee and selling heroin, crack cocaine and powder cocaine in Green Bay. He explained that he “now gets at least 50 g of heroin each trip to Milwaukee.” On the day in question, Chambers claimed he delivered the heroin to Matthew Belekevich, and that it was Belekevich who then delivered the heroin to the victim. Chambers also stated that he witnessed Belekevich and the victim inject the heroin, and even saw Belekevich inject the victim with Narcan after she overdosed. However, Chambers claimed the victim was alive and walking around when Chambers left.

Belekevich allegedly admitted that he injected the heroin into the victim’s right arm twice. The first time he injected the heroin, she started “nodding off,” and he knew she was overdosing so Belekevich gave her Narcan. Belekevich also allegedly told police he injected her the second time with heroin because she “wanted some more.”

An autopsy report opined the victim died of polysubstance toxicity. The report stated:

At autopsy, there was a puncture wound in the right arm. There was fluid buildup in the brain and lungs. There was no evidence of significant injuries or natural disease which caused or contributed to the death Routine toxicological (drug and alcohol) tests showed morphine combined with alprazolam, oxymorphone and

¹ References to the Wisconsin Statutes are to the 2017-18 version unless otherwise noted.

² Referring to *Miranda v. Arizona*, 384 U.S. 436 (1966).

THC (from marijuana) in the blood. The urine showed alprazolam and its metabolite, THC (from marijuana), benzoylecgonine (cocaine metabolite), morphine, 6-monoacetylmorphine (heroin metabolite), codeine, oxycodone, oxymorphone. Naloxone (Narcan), an opiate antagonist, was present in the urine.

Chambers was charged with first-degree reckless homicide, as a party to a crime, and as a repeater. Chambers moved to suppress his statements to police, and an evidentiary hearing was held, after which the circuit court denied the motion.

An amended Information was subsequently filed charging Chambers with one amended count of delivery of heroin, as a party to a crime, as a repeater, and as a second and subsequent offense. Chambers pleaded no contest to the delivery of heroin count, and the State agreed to recommend the dismissal of all the enhancers. The circuit court imposed a sentence consisting of six years' initial confinement and five years' extended supervision.

The no-merit report addresses whether the circuit court properly denied the motion to suppress Chambers' statements; whether the plea was knowingly, intelligently, and voluntarily entered; and whether the court properly exercised its sentencing discretion. This court is satisfied that the no-merit report properly analyzes the issues raised, and we will not discuss them further.³

Although not raised by the no-merit report, we note the COMPAS risk assessment was mentioned at sentencing, but the record shows it was not "determinative" of the sentence

³ The circuit court failed to advise Chambers of the potential deportation consequences of his plea as mandated by WIS. STAT. § 971.08(1)(c). However, the no-merit report represents to this court that "[i]n speaking to Chambers, it is appellate counsel's understanding that he is a citizen of this country." Chambers has not responded to the no-merit report, and therefore no arguable issue arises from the court's failure to advise regarding the deportation consequences.

imposed. *See State v. Loomis*, 2016 WI 68, ¶¶98-99, 371 Wis. 2d 235, 881 N.W.2d 749. Any challenge to the sentence based on COMPAS would therefore lack arguable merit.

Therefore,

IT IS ORDERED that the judgment is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that attorney Timothy T. O'Connell is relieved of further representing Deante Chambers 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