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DISTRICT IV

February 22, 2018

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

2017AP904-CRNM State of Wisconsin v. Amber L. Parsons (L.C. # 2015CM22)

Before Blanchard, J.¹

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).

Amber Parsons appeals a judgment convicting her, based upon a no-contest plea, of resisting an officer. Attorney Matthew A. Lynch has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32; *Anders v. California*, 386 U.S. 738, 744

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(f) (2015-16). All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

(1967). The no-merit report addresses a suppression motion, Parsons' plea, and the circuit court's exercise of its sentencing discretion. Parsons was sent a copy of the report, but has not filed a response. Upon reviewing the entire record, as well as the no-merit report, I conclude that there are no arguably meritorious appellate issues.

First, I agree with counsel's analysis on pages 5-6 of the no-merit report that a challenge to the suppression ruling would be frivolous, based upon the circuit court's determination that Parsons' boyfriend provided consent to enter the residence by his conduct.

Next, I see no arguable basis for plea withdrawal. The circuit court conducted a plea colloquy, inquiring into Parsons' ability to understand the proceedings and the voluntariness of her plea, and further exploring her understanding of the nature of the charge, the penalty range and other direct consequences of the plea, and the constitutional rights being waived. In addition, Parsons provided the court with a signed plea questionnaire, with an attached sheet setting forth the elements of the offense, and indicated that she understood the information on those forms. The facts set forth in a police report attached to the complaint—namely, that Parsons began screaming and kicking while being arrested for bail jumping—provided a sufficient factual basis for the plea. In conjunction with the plea questionnaire and complaint, the colloquy was sufficient to satisfy the court's obligations under WIS. STAT. § 971.08. *See State v. Hoppe*, 2009 WI 41, ¶18, 317 Wis. 2d 161, 765 N.W.2d 794; *State v. Moerderdorfer*, 141 Wis. 2d 823, 827-28, 416 N.W.2d 627 (Ct. App. 1987). I further note that there is nothing in the record to suggest that trial counsel's performance was in any way deficient, and Parsons has not alleged any other facts that would give rise to a manifest injustice.

Finally, a challenge to Parsons' sentence would also lack arguable merit. The court imposed and stayed a sentence of 180 days in jail, subject to a two-year period of probation, to be served concurrently with two additional terms of probation being imposed at the same time in a companion case.

The sentence imposed did not exceed the maximum available penalty. *See* WIS. STAT. §§ 946.41(1) (classifying resisting an officer as a Class A misdemeanor); 939.51(3)(a) (providing maximum imprisonment of nine months for a Class A misdemeanor); 973.09(2)(a)1m. (setting term of probation for a Class A misdemeanor at not less than six months and not more than one year); 973.09(2)(a)2. (increasing maximum original term of probation by one year when probationer convicted of two to four misdemeanors at same time).

Additionally, the record shows that the circuit court considered relevant sentencing factors and rationally explained their application to this case, expressing concern that it had taken multiple officers to get Parsons under control while she was being arrested. *See generally State v. Gallion*, 2004 WI 42, ¶¶39-46, 270 Wis. 2d 535, 678 N.W.2d 197. The sentence was not unduly harsh, taking into account that there were two additional charges dismissed and read in. *See generally State v. Grindemann*, 2002 WI App 106, ¶¶31-32, 255 Wis. 2d 632, 648 N.W.2d 507.

Upon an independent review of the record, I have found no other arguable basis for reversing the judgment of conviction. I conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

Accordingly,

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

IT IS FURTHER ORDERED that Attorney Matthew A. Lynch is relieved of any further representation of Amber Parsons in this matter pursuant to 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