



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688
Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT II

December 26, 2018

To:

Hon. Sandy A. Williams
Circuit Court Judge
1201 S. Spring St.
Port Washington, WI 53074-0994

Adam Y. Gerol
District Attorney
P.O. Box 994
Port Washington, WI 53074-0994

Marylou Mueller
Clerk of Circuit Court
Ozaukee County Circuit Court
1201 S. Spring St.
Port Washington, WI 53074-0994

Criminal Appeals Unit
Department of Justice
P.O. Box 7857
Madison, WI 53707-7857

Gregory Bates
Bates Law Offices
P.O. Box 70
Kenosha, WI 53141-0070

Deandre S. Manns, #462391
Racine Correctional Inst.
P.O. Box 900
Sturtevant, WI 53177-0900

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

2017AP2261-CRNM State of Wisconsin v. Deandre S. Manns (L.C. #2014CF226)

Before Neubauer, C.J., Reilly, P.J., and Hagedorn, J.

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).

Deandre S. Manns appeals from a judgment imposing sentence after the revocation of his probation. His appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2015-16)¹ and *Anders v. California*, 386 U.S. 738, 744 (1967), addressing whether the circuit

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

court appropriately exercised its discretion in imposing sentence. Manns received a copy of the report and elected not to file a response. Upon consideration of the no-merit report and an independent review of the record, we conclude that the judgment may be summarily affirmed because there is no arguable merit to any issue that could be raised on appeal. *See* WIS. STAT. RULE 809.21.

Manns pled guilty to one count of uttering a forgery as a party to the crime, a Class H felony contrary to WIS. STAT. § 943.38(2). The court withheld sentence and ordered a three-year term of probation. Manns's probation was revoked and he was returned to court for sentencing. At his post-revocation sentencing, the court imposed a six-year bifurcated sentence, with three years each of initial confinement and extended supervision. The circuit court found Manns ineligible for both the Challenge Incarceration Program and the Substance Abuse Program. The court ordered 622 days of presentence credit pursuant to WIS. STAT. § 973.155.

Because this matter is before us following sentencing after probation revocation, Manns's underlying conviction is not before us. *See State v. Drake*, 184 Wis. 2d 396, 399, 515 N.W.2d 923 (Ct. App. 1994). In addition, Manns cannot challenge the administrative revocation decision as part of this appeal. *See State ex rel. Cramer v. Court of Appeals*, 2000 WI 86, ¶28, 236 Wis. 2d 473, 613 N.W.2d 591 (the mechanism for challenging probation revocation is by writ of certiorari in the circuit court). Our review is limited to the circuit court's sentencing discretion.

We agree with appellate counsel's analysis and conclusion that there is no arguably meritorious challenge to the sentence imposed after revocation. The circuit court considered the initial charge, the original sentencing hearing, and the events leading to Manns's revocation. *See State v. Wegner*, 2000 WI App 231, ¶7, 239 Wis. 2d 96, 619 N.W.2d 289 (sentencing after

probation revocation is reviewed “on a global basis, treating the latter sentencing as a continuum of the” original sentencing hearing). In ordering probation, the circuit court acknowledged Manns’s lengthy criminal history and his need to “make some drastic changes,” but hoped that supervision would provide guidance and help Manns “focus [his] intelligence in a constructive manner.” *See id.*, ¶9 (“[W]hen the same judge presides at the sentencing after revocation and the original sentencing, ... we will consider the original sentencing reasons to be implicitly adopted.”). The Department of Corrections revocation memorandum informed the court that Manns had absconded from probation and acquired new and serious charges. At the sentencing following revocation, the court recounted that it initially ordered probation for rehabilitative purposes and determined that Manns’s failures on probation necessitated prison. The circuit court’s sentence was a demonstrably proper exercise of discretion with which we will not interfere. *See State v. Gallion*, 2004 WI 42, ¶¶17-18, 270 Wis. 2d 535, 678 N.W.2d 197.

Our review of the record discloses no other potential issue for appeal. Therefore,

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

IT IS FURTHER ORDERED that Attorney Gregory Bates is relieved from further representing Deandre S. Manns in this appeal. *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