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July 30, 2019

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

2016AP1870-CRNM State of Wisconsin v. Joseph M. Guerrero (L.C. # 2013CF245)

Before Brash 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).

Joseph M. Guerrero appeals from a judgment convicting him after a bench trial of first-degree intentional homicide, as an act of domestic abuse, arson, and mutilating a corpse. His appellate counsel, Colleen Marion, has filed a no-merit report pursuant to WIS. STAT.

RULE 809.32 (2017-18),¹ and *Anders v. California*, 386 U.S. 738 (1967). Guerrero was informed of his right to file a response. He filed multiple motions seeking extensions of time to file a response, which we granted. Ultimately, however, Guerrero opted not to file a response. After considering appellate counsel's report and conducting an independent review of the record, we conclude that the judgment should be summarily affirmed because there is no arguable merit to any issue that could be raised on appeal. *See* WIS. STAT. RULE 809.21.

The no-merit report thoroughly recounts the trial testimony and multiple substantive stipulations made during trial. Guerrero stipulated that he put his hands around the neck of his wife and squeezed while holding her up against a wall. He also stipulated that his wife died as a result of his actions and that he caused the fire that burned her body. At trial, Guerrero argued that he did not intend to kill his wife. He asserted that he thought that she had become unconscious, so he placed her in a chair and put a blanket over her, then passed out from intoxication, and later woke to find her dead. He also asserted that he unsuccessfully tried to kill himself when he realized his wife was dead.

The no-merit report addresses whether Guerrero knowingly, voluntarily, and intelligently waived his right to a jury trial and his right to testify. The circuit court's colloquies with Guerrero were thorough and show that Guerrero knowingly, voluntarily, and intelligently waived his rights. There would be no arguable merit to these claims.

The no-merit report next addresses whether Guerrero's stipulations were validly entered. The circuit court conducted an extensive colloquy with Guerrero about the stipulations,

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

explaining their legal effect. In accord with WIS. STAT. § 807.05, the stipulations were presented in court and they were reduced to writing and signed by the parties. Therefore, there would be no arguable merit to a challenge to the stipulations.

The no-merit report next addresses whether the evidence was sufficient to sustain the circuit court's findings that Guerrero was guilty of each of the three counts he was charged with. When reviewing the sufficiency of the evidence, we look at whether “the evidence, viewed most favorably to the [S]tate and the conviction, is so lacking in probative value and force that no trier of fact, acting reasonably, could have found guilty beyond a reasonable doubt.” *State v. Zimmerman*, 2003 WI App 196, ¶24, 266 Wis. 2d 1003, 669 N.W.2d 762 (citation omitted). The stipulations and trial testimony support the circuit court's factual findings. The State proved the elements of each of the crimes beyond a reasonable doubt. There would be no arguable merit to a claim that the evidence was insufficient to support the circuit court's findings that Guerrero was guilty.

Finally, the no-merit report addresses whether the circuit court misused its discretion in sentencing Guerrero. The circuit court sentenced Guerrero to life imprisonment with no possibility of extended supervision for first-degree intentional homicide. The court also sentenced Guerrero to forty years of imprisonment for arson, with twenty-five years of initial confinement and fifteen years of extended supervision, to be served concurrently, and twelve years of imprisonment for mutilating a corpse, with seven years of initial incarceration and five years of extended supervision, to be served concurrently. The circuit court considered appropriate factors and applied them to the facts of this case in a reasoned and reasonable manner. See *State v. Gallion*, 2004 WI 42, ¶¶39-46, ¶49, 270 Wis. 2d 535, 678 N.W.2d 197.

Therefore, we conclude that there would be no arguable merit to an appellate challenge to the circuit court's exercise of sentencing discretion.

Our review of the record discloses no other potential issues for appeal. Accordingly, we accept the no-merit report, affirm the conviction, and discharge appellate counsel of the obligation to represent Guerrero further in this appeal.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Collen Marion is relieved from further representing Joseph Guerrero 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