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DISTRICT II

February 12, 2020

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

2018AP2239-CRNM State v. Jonathan L. Rivera (L.C. #2017CF151)

Before Neubauer, C.J., Reilly, P.J., and Gundrum, 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).

Jonathan Rivera appeals from an amended judgment convicting him of robbery of a financial institution contrary to WIS. STAT. § 943.87 (2017-18)¹ and second-degree recklessly endangering safety contrary to WIS. STAT. § 941.30(2). Rivera's appellate counsel filed a no-

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

merit report pursuant to WIS. STAT. RULE 809.32 and *Anders v. California*, 386 U.S. 738 (1967). Rivera received a copy of the report and was advised of his right to file a response. He has not done so. Upon consideration of the report and an independent review of the record as mandated by *Anders* and RULE 809.32, we summarily affirm the amended judgment and the order because there are no issues that would have arguable merit for appeal. WIS. STAT. RULE 809.21.

The circuit court sentenced Rivera to consecutive terms of twenty-five years for robbery (fifteen years of initial confinement and ten years of extended supervision) and eight years for second-degree recklessly endangering safety (three years of initial confinement and five years of extended supervision). Rivera received sentence credit.

The no-merit report addresses the following possible appellate issues: (1) whether Rivera's guilty pleas were knowingly, voluntarily and intelligently entered; (2) whether the circuit court misused its sentencing discretion; and (3) whether the circuit court should have granted Rivera's motion to modify his sentence. After reviewing the record, we conclude that counsel's no-merit report properly analyzes these issues and correctly concludes that these issues are without arguable merit.

The plea colloquy complied with *State v. Hoppe*, 2009 WI 41, ¶18, 317 Wis. 2d 161, 765 N.W.2d 794. The colloquy was thorough and informed Rivera of each of the constitutional rights waived by his plea. “[A] guilty plea waives all nonjurisdictional defects and defenses.” *State v. Popp*, 2014 WI App 100, ¶13, 357 Wis. 2d 696, 855 N.W.2d 471 (citation omitted).

The circuit court also engaged in a proper exercise of sentencing discretion after considering various sentencing factors. See *State v. Gallion*, 2004 WI 42, ¶76, 270 Wis. 2d 535, 678 N.W.2d 197 (we review the sentence for a misuse of discretion); *State v. Ziegler*, 2006 WI

App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76 (sentencing factors discussed). The circuit court considered the severity of Rivera's crimes and decided that he would not be eligible for either the Challenge Incarceration Program or the Substance Abuse Program.

Postconviction, the circuit court properly denied Rivera's request to make him eligible for the Challenge Incarceration Program and Substance Abuse Program. While the court understood that Rivera was subsequently sentenced in Milwaukee County and made eligible for the Challenge Incarceration Program and the Substance Abuse Program, the court nevertheless declined to change its previous determination that Rivera should not be eligible for these programs. No issue with arguable merit arises.

In addition to the issues discussed above, we have independently reviewed the record. Our independent review of the record did not disclose any arguably meritorious issue for appeal. Because we conclude that there would be no arguable merit to any issue that could be raised on appeal, we accept the no-merit report, affirm the amended judgment of conviction and the order, and relieve Attorney Jeremy Newman of further representation of Rivera in this matter.

Upon the foregoing reasons,

IT IS ORDERED that the amended judgment and order of the circuit court are summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Jeremy Newman is relieved of further representation of Jonathan Rivera in this matter.

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

Sheila T. Reiff
Clerk of Court of Appeals