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July 7, 2020

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

2018AP834-CRNM State of Wisconsin v. Quaasheem A. Chambers
(L.C. No. 2016CF899)

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).

Quaasheem Chambers appeals from a judgment of conviction for one count of assault by a prisoner, as a repeater. *See* WIS. STAT. §§ 946.43(2m)(a) (2017-18), 939.62(1)(b) (2017-18).¹ Chambers’s appellate counsel, Jeremy Newman, has filed a no-merit report pursuant to *Anders v. California*, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32.² Chambers filed a response. We have independently reviewed the record, the no-merit report, and the response, as mandated by *Anders*.³ We conclude there is no issue of arguable merit that could be pursued on appeal. Therefore, we summarily affirm.

The criminal complaint alleged that on February 8, 2016, while serving a sentence for other crimes, Chambers was alone in a segregation cell when a prison employee was repairing a “trap lock” on the door of Chambers’s cell. Chambers kicked the cell door and told the employee that he was going to “piss on” him. Shortly thereafter, urine splashed through a crack in the trap door, landing on the employee’s face and shirt. Chambers was subsequently charged with assault by a prisoner, a Class I felony, as a repeater.

While the case was pending, the circuit court twice granted Chambers’s requests to have new trial counsel appointed based on breakdowns in each attorney-client relationship. The case proceeded to trial, where Chambers’s defense was that the State failed to prove that the liquid he

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

² Chambers is also represented by attorney Suzanne Hagopian who filed a notice of appearance in November 2018.

³ Our review of this appeal was delayed pending the Wisconsin Supreme Court’s consideration of another defendant’s appeal concerning WIS JI—CRIMINAL 140, which was also used at Chambers’s trial. Based on the Wisconsin Supreme Court’s resolution of that appeal, there would be no arguable merit to pursue postconviction proceedings based on the use of that jury instruction in this case. *See State v. Trammell*, 2019 WI 59, ¶67, 387 Wis. 2d 156, 928 N.W.2d 564.

threw was urine. A jury found Chambers guilty. The court sentenced Chambers to sixteen months of initial confinement and sixteen months of extended supervision, consecutive to the sentences he was already serving. This no-merit appeal follows.

The no-merit report discusses the pretrial proceedings, the jury trial, and sentencing. It analyzes two issues: (1) whether the jury verdict was supported by sufficient evidence; and (2) whether the circuit court erroneously exercised its sentencing discretion. The no-merit report thoroughly addresses both of those issues, providing citations to the record and relevant authority. This court is satisfied that the no-merit report properly analyzes the issues it raises. Based on our independent review of the record, we agree with counsel's assessment that those issues do not have arguable appellate merit.

In his response to the no-merit report, Chambers reiterates the argument his trial counsel presented to the jury: that there was insufficient proof the liquid Chambers threw on the prison employee was urine. Chambers notes that there was no forensic testing of the liquid, and there was no video or audio evidence.

As relevant here, to prove assault by a prisoner, the State was required to show that Chambers was a prisoner in a state prison who threw urine at a prison employee with the intent that it come in contact with that employee. For the reasons outlined in the no-merit report, we conclude that there would be no arguable merit to assert that the evidence, viewed most favorably to the State and the conviction, was "so insufficient in probative value and force that it can be said as a matter of law that no trier of fact, acting reasonably, could have found guilt beyond a reasonable doubt." See *State v. Poellinger*, 153 Wis. 2d 493, 501, 451 N.W.2d 752 (1990). Specifically, the employee testified, "Chambers said he was going to throw piss on me

or he was going to piss on me.” The employee said that shortly thereafter, warm liquid that smelled like urine “came through the crack on the right side of the door hitting me in the hat, the face, my mouth ... and my shirt.” Based on this testimony, the jury could find that Chambers threw urine at the employee.

We have identified one other issue that merits brief discussion. As the no-merit report explains, the circuit court ordered a competency examination at the request of Chambers’s third trial counsel. The examining psychiatrist opined that Chambers was competent to proceed. At the subsequent competency hearing, Chambers’s trial counsel told the court that he and Chambers did not contest the examiner’s opinion, and Chambers personally agreed that he was competent. Having reviewed the report and the transcript of the hearing, we conclude that there would be no arguable merit to challenge the court’s decision to accept the competency report and proceed with the jury trial.

Our review of the record discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit report, affirms the conviction, and discharges appellate counsel of the obligation to represent Chambers further in this appeal.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that attorneys Suzanne L. Hagopian and Jeremy Newman are relieved from further representing Quaasheem Chambers 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