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DISTRICT III

December 6, 2022

To:

Hon. John A. Des Jardins
Circuit Court Judge
Electronic Notice

Barb Bocik
Clerk of Circuit Court
Outagamie County Courthouse
Electronic Notice

Winn S. Collins
Electronic Notice

Laura M. Force
Electronic Notice

Charles M. Stertz
Electronic Notice

Manishkumar M. Patel 674340
Dodge Correctional Inst.
P.O. Box 700
Waupun, WI 53963-0700

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

2021AP467-CRNM State of Wisconsin v. Manishkumar M. Patel
(L. C. No. 2007CF1002)

Before Stark, P.J., Hruz and Gill, 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).

Manishkumar Patel appeals from an amended judgment resentencing him to prison for attempted first-degree intentional homicide of an unborn child, following the vacation of a previously imposed sentence. Assistant State Public Defender Megan Sanders-Drazen filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2019-20);¹ *Anders v. California*, 386 U.S. 738, 744 (1967). Patel was informed of his right to

¹ All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

respond to the report, but he has not filed a response. Assistant State Public Defender Laura Force subsequently substituted as counsel for Sanders-Drazen and has not withdrawn the no-merit report. Having independently reviewed the entire record, as well as the no-merit report, we conclude that counsel shall be allowed to withdraw and the amended judgment will be summarily affirmed. *See* WIS. STAT. RULE 809.21.

The no-merit report sets forth the extensive procedural history of this case, which includes Patel absconding to India while on bond, his extradition, the entry of a plea, the imposition of an illegal sentence, and the attempted correction of the sentence outside of Patel's presence. As counsel correctly notes, however, the scope of this appeal is limited to the sentence imposed at the resentencing hearing held on August 28, 2020, which was subsequently amended as to sentence credit.

After hearing from the parties at the resentencing hearing, the circuit court stated that it would seek to effectuate the intent of its original sentence in a legal manner. It then discussed how Patel spiked his pregnant girlfriend's smoothie with RU486 in an attempt to induce a miscarriage—which the court characterized as “despicable”—as well as the facts underlying the read-in offenses of stalking and violating a harassment injunction. The court noted that protection of the public, deterrence, and rehabilitation were not significant factors in this case and that the court's primary focus was on punishment based upon the seriousness of the offenses. The court then imposed a sentence of twenty-one years' initial confinement followed by seven years' extended supervision. The court subsequently granted a postconviction motion to increase Patel's sentence credit to 1,321 days.

Our review of a sentence determination begins “with the presumption that the [circuit] court acted reasonably, and the defendant must show some unreasonable or unjustifiable basis in the record for the sentence.” *State v. Krueger*, 119 Wis. 2d 327, 336, 351 N.W.2d 738 (Ct. App. 1984). Here, we agree with counsel’s analysis and conclusion that any challenge to the sentence would lack arguable merit. In particular, we agree that the sentence was legal, that it was well within the maximum available penalty for a Class B felony, that the correct amount of sentence credit was applied, and that the circuit court rationally explained why it imposed the sentence based upon relevant sentencing factors. *See* WIS. STAT. §§ 940.01(1)(b); 939.32; 973.01(2)(b)1.; 973.01(2)(d)1.; *see also State v. Gallion*, 2004 WI 42, ¶¶39-46, 270 Wis. 2d 535, 678 N.W.2d 197.

Our independent review of the record discloses no other potential issues for appeal. We 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 amended judgment of conviction is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Assistant State Public Defender Laura Force is relieved of any further representation of Manishkumar Patel in this matter pursuant to WIS. STAT. RULE 809.32(3).

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

Sheila Rieff
Clerk of Court of Appeals