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DISTRICT IV

November 20, 2025

To:

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Circuit Court Judge
Electronic Notice

Jeff Okazaki
Register in Probate
Dane County Courthouse
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Erica L. Bauer
Electronic Notice

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Kavi T. Fix 625534
Redgranite Correctional Institution
P.O. Box 925
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You are hereby notified that the Court has entered the following opinion and order:

2024AP817-CRNM State of Wisconsin v. Kavi T. Fix (L.C. #2020CF1782)

Before Graham, P.J., Blanchard, and Nashold, 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).

Attorney Erica Bauer, appointed counsel for Kavi Fix, has filed a no-merit report seeking to withdraw as appellate counsel pursuant to WIS. STAT. RULE 809.32 (2023-24)[1] and ***Anders v. California***, 386 U.S. 738 (1967). Counsel provided Fix with a copy of the report, and both counsel and this court advised Fix of his right to file a response. Fix has not responded. We conclude that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21.

[1] All references to the Wisconsin Statutes are to the 2023-24 version.

After our independent review of the record, we conclude that there is no arguable merit to any issue that could be raised on appeal.

After a three-day jury trial, Fix was convicted of false imprisonment in violation of WIS. STAT. § 940.30 (Count 2); attempted kidnapping in violation of WIS. STAT. § 940.31(1)(b) (Count 3); and disorderly conduct, in violation of WIS. STAT. § 947.01(1) (Count 5), all as a repeater. Fix was acquitted on charges of strangulation and attempted second-degree sexual assault.

According to the complaint filed against him, Fix approached two women in a parking ramp just before 2:00 a.m. on June 19, 2020. He made a comment about the appearance of one of the women and tried to kiss her. The other woman yelled at Fix to stay away due to Coronavirus before the women got in their car and drove away. At 2:26 a.m., police responded to a 911 call from another woman who had been walking with her friend when Fix "came out of nowhere and pointed a small black handgun at her friend's head." Fix did not take any of the women's belongings, but attempted to drag the caller's friend away while having her in a chokehold. Fix ran away after he saw a man and woman approaching. Fix fled in a blue sedan, which he crashed just before 2:30 a.m. Officers connected Fix to the previously described events after responding to the crash and observing that Fix's appearance was consistent with witness descriptions of the suspect, finding a black BB gun stashed in a bush near the crash, finding BBs in Fix's car, and analyzing video footage from multiple sources showing Fix's blue sedan speeding away from the area of the attacks before crashing.

The no-merit report reviews Fix's pretrial proceedings and explains that the criminal complaint includes a sufficient factual basis, with reasonable inferences drawn in favor of the

State, to name Fix as the suspect and to support the offenses charged. The circuit court denied the State's motion to admit prior bad acts, namely, evidence of Fix's two prior convictions for sexual assault, determining that the prior acts were not similar enough to the conduct charged in this case and that the prejudice to Fix would outweigh any probative value. Given that the court ruled in Fix's favor and the State did not introduce evidence of the prior sexual assaults, this court agrees, after an independent review of the record, that neither this issue nor any of the other pretrial filings or proceedings present an arguably meritorious ground for appeal.

As the no-merit report explains, the circuit court denied Fix's motion in limine on jury instructions. Fix sought a special jury instruction to remove language found in the standard jury instruction for the burden of proof directing the jury that it must "search for the truth." *See* WIS JI—CRIMINAL 140. Our supreme court has determined that this jury instruction "does not unconstitutionally reduce the State's burden of proof below the reasonable doubt standard." ***State v. Trammell***, 2019 WI 59, ¶2, 387 Wis. 2d 156, 928 N.W.2d 564. This issue presents no arguably meritorious ground for appeal.

The no-merit report also addresses Fix's jury trial and the question of whether the evidence presented at trial was sufficient to support the jury's verdict. We affirm the verdict unless the evidence, viewed most favorably to the State and the conviction, is so insufficient in probative value and force that no reasonable trier of fact could have found guilt beyond a reasonable doubt. ***State v. Poellinger***, 153 Wis. 2d 493, 501, 451 N.W.2d 752 (1990). At a trial, it is for the trier of fact to determine the credibility of witnesses. ***Id.*** at 504.

Without attempting to recite the evidence in detail here, the evidence presented to the jury supporting Counts 2 and 3 included testimony from the victim and her friend, the man and

woman who approached the scene while the victim was in a headlock, and multiple law enforcement officers. The State introduced video from multiple surveillance cameras that showed the attack and Fix's fleeing vehicle as well as the BB gun that was recovered near the scene of his crash and the results of DNA testing showing "very strong support" for inclusion of Fix as a contributor to the DNA profile from the gun. The State also introduced video of Fix's interview with law enforcement, in which he changed his account of his actions on June 19 multiple times and provided information that was contradicted by the surveillance camera videos. With respect to Count 5, the two women from the parking ramp testified about Fix attempting to kiss one of them and being "in her face." This evidence presented at trial was not inherently incredible and, if believed by the jury, was sufficient to satisfy the elements of each count. There would be no arguable merit to challenging the sufficiency of the evidence to support the jury's verdicts. Additionally, we are satisfied that there is nothing in the no-merit report or the record that would give rise to an arguably meritorious claim for ineffective assistance of trial counsel.

Finally, the no-merit report addresses Fix's sentence. The circuit court initially sentenced Fix to ten years of initial confinement followed by ten years of extended supervision on the attempted kidnapping conviction. The maximum term of initial confinement on this count was 18.5 years of initial confinement (if the court used the repeater enhancer) and seven and one-half years of extended supervision. *See* WIS. STAT. §§ 940.31(1)(b); 939.32; 939.50; 973.01(2); 939.62. The court amended the term of extended supervision to seven and one-half years after the Department of Corrections noted that that is the maximum term of extended supervision authorized by statute. Fix was sentenced to three years of initial confinement and three years of extended supervision, concurrent, on the false imprisonment conviction. The maximum penalty

for that charge was seven years of initial confinement (with the repeater enhancer) and three years of extended supervision, consecutive. *See* WIS. STAT. §§ 940.30; 939.50(3)(h); 939.62; 973.01. Fix was sentenced to a 30-day consecutive term of confinement on the disorderly conduct charge, for which he faced up to two years of confinement (with the repeater enhancer). *See* WIS. STAT. §§ 947.01; 939.62; 973.01. Counsel filed a successful postconviction motion pursuant to which Fix received 112 days of sentence credit.

The standards for the circuit court and this court on discretionary issues such as sentencing are well-established and need not be repeated here. *See* ***State v. Gallion***, 2004 WI 42, ¶¶17-51, 270 Wis. 2d 535, 678 N.W.2d 197. Fix's sentence was not unduly harsh or unconscionable. *See* ***State v. Pratt***, 36 Wis. 2d 312, 322, 153 N.W.2d 18 (1967). The circuit court considered the appropriate factors, did not consider improper factors, and reached a reasonable result. *See* ***Gallion***, 270 Wis. 2d 535, ¶¶17-51. Any challenge to the court's exercise of sentencing discretion would be without arguable merit.

Our review of the record discloses no other potential issues for appeal. The circuit court denied Fix's motion in limine seeking permission to argue that his status of being on probation could have been a motivation for getting rid of the BB gun before law enforcement arrived at the scene of his car crash without opening the door for the State to introduce the convictions for which he was on probation. The State's position was that nothing in Fix's probation rules prohibited him from having a BB gun (which is not a "firearm" as that term is legally defined), and that it should be free to rebut any such assertion by arguing that the reason Fix hid the BB gun was not that he feared police contact due to his probation status but that he feared police contact because he had just attempted to commit a sexual assault, the same crime for which Fix was on probation. *See* ***State v. Harvey***, 2006 WI App 26, ¶40, 289 Wis. 2d 222, 710 N.W.2d

482 (stating the general rule that a "party who opens the door on a subject cannot complain if the opposing party offers evidence on the same subject to explain, counteract, or disprove the evidence"). We are aware of no authority suggesting that here the circuit court's denial of this motion constituted an erroneous exercise of discretion, and we conclude this issue does not present an arguably meritorious 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 Bauer is relieved of further representation of Fix in this matter. *See* WIS. STAT. RULE 809.32(3).

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

Samuel A. Christensen
Clerk of Court of Appeals