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DISTRICT II

July 24, 2019

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

2019AP82-CRNM State of Wisconsin v. William C. Myhre (L.C. #2002CF12)

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).

William C. Myhre appeals from a judgment convicting him of one count of first-degree reckless injury and two counts of first-degree recklessly endangering safety. Appointed appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2017-18)[1] and

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

Anders v. California, 386 U.S. 738 (1967). Myhre has exercised his right to file a response, and counsel filed a supplemental report. Upon consideration of the reports, the response, and an independent review of the record as mandated by ***Anders*** and RULE 809.32, we summarily affirm the judgment because there is no arguable merit to any issue that could be raised on appeal. *See* WIS. STAT. RULE 809.21.

In 2002, seventeen-year-old Myhre was charged with attempted first-degree intentional homicide after he shot two men, J.E. and R.P., leaving J.E. paralyzed. Myhre fled to Detroit. In 2016, Detroit police stopped him for a traffic violation and discovered the outstanding warrant from Racine County. On the morning of trial, Myrhe entered no-contest pleas to one count of first-degree reckless injury and two counts of first-degree recklessly endangering safety. The court sentenced Myrhe to consecutive sentences totaling fourteen years' initial confinement followed by nine years' extended supervision. This no-merit appeal followed.

The no-merit report considers potential issues attendant to the timeliness of the prosecution, Myhre's competence to proceed, whether trial counsel was ineffective for not persuading Myhre to proceed with the jury trial, the validity of his pleas, and the propriety of the sentence. As appellate counsel thoroughly examined each issue, we need address them no further. We concur with counsel's well-reasoned conclusion that potential claims on any of those points would lack arguable merit.

Myhre's response lists four reasons for why he "should go to trial." Appellate counsel addresses each of his points in her supplemental no-merit report.

First, Myhre states that he was "put on some meds" that made him not understand his decision to enter no-contest pleas. Myhre has multiple sclerosis and a long-standing psychiatric

history. He takes medications for both. He first was found to be not competent to assist in his defense but that he could be restored to competency with proper medication. He later was found to be competent.[2] At the plea hearing, he acknowledged having taken medications within the prior twenty-four hours but told the court that he knew of nothing about them that would impair his ability to understand the proceedings and was having no difficulty understanding any of the questions the court put to him.

Second, Myhre claims he was not given access to a statement J.E. made to a detective about prior antagonistic encounters between him and Myhre, including one where Myhre threatened to shoot him. The court granted the State's pretrial motion to allow the statement to be used as "panorama" evidence to show Myrhe intended to kill J.E., *see* ***State v. Dukes***, 2007 WI App 175, ¶28, 303 Wis. 2d 208, 736 N.W.2d 515, and that it also was admissible under ***State v. Sullivan***, 216 Wis. 2d 768, 771-72, 576 N.W.2d 30 (1998). The defense was provided with a copy of the State's motion and Myhre was present when the court ruled on it. Myhre does not claim the statement is inaccurate or suggest how, if he had known about it earlier, it would have made him more resolute to go to trial.

Third, Myhre asserts that "the only thing they talked about was a person's statement that had nothing to do with any of this." It is difficult to know what he means. If he is referring to intimations in the record that the shooting might have been gang-related, which Myhre denies, or to R.P.'s statement to police that he saw Myhre shoot J.E., we fail to see how this vague claim wrongly deprived him of a jury trial. His counsel may have advised him to accept the plea deal

[2] One psychologist opined that Myhre may feign some of his symptoms.

because the evidence was stacked against him, but the decision ultimately was Myhre's, and he told the court no one was threatening or forcing him to waive his right to trial.

Finally, he contends some people that should have been questioned about the incident were not, and some were lying. He does not say who else might have been questioned or what they might have said and does not indicate who he believes lied or what they lied about. Myhre himself told the PSI writer that he shot J.E. He fled the state and stayed missing for fourteen years. "The fact of an accused's flight is generally admissible against the accused as circumstantial evidence of consciousness of guilt and thus of guilt itself." ***State v. Quiroz***, 2009 WI App 120, ¶18, 320 Wis. 2d 706, 772 N.W.2d 710.

None of Myhre's points are to any avail, and our review of the record discloses no other potential issues for appeal. Therefore,

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

IT IS FURTHER ORDERED that Attorney Dianne M. Erickson is relieved from further representing Myhre 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