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DISTRICT III

May 5, 2020

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

2018AP1666-CRNM State of Wisconsin v. Brian Keith Mayer
(L. C. No. 2017CF32)

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).

Brian Mayer appeals from a judgment convicting him of one count of possession of amphetamine with intent to deliver (>3-10g). Attorney Erica Bauer has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2017-18).¹ The

¹ All further references in this order to the Wisconsin Statutes are to the 2017-18 version, unless otherwise noted.

no-merit report sets forth the procedural history of the case and addresses a suppression ruling, Mayer's plea, and potential sentencing issues. Mayer was advised of his right to respond to the no-merit report, but he has not done so. Having independently reviewed the entire record as mandated by *Anders v. California*, 386 U.S. 738, 744 (1967), we conclude that counsel may be allowed to withdraw and the judgment of conviction is summarily affirmed. *See* WIS. STAT. RULE 809.21.

The State initially charged Mayer with three drug-related felonies and three drug-related misdemeanors based upon evidence obtained during law enforcement's stop of Mayer's vehicle in response to an informant's tip. The State later amended the complaint to add six misdemeanor bail jumping charges. After the circuit court denied a suppression motion, Mayer pleaded no contest to an amended felony count of possession of amphetamine with intent to deliver (>3-10g). In exchange, the State moved to dismiss and read in all other charges and penalty enhancers, and it agreed to jointly recommend a sentence of eight years' initial confinement and five years' extended supervision.

The circuit court accepted the plea after reviewing a plea questionnaire submitted by Mayer and conducting a plea colloquy. The court subsequently reviewed a presentence investigation report and heard from the parties regarding sentencing.² The court then followed the parties' joint recommendation and sentenced Mayer to eight years' initial confinement and five years' extended supervision, to be served consecutive to any previously imposed sentence.

² The circuit court proffered Mayer his right of allocution, but he chose not to speak.

We agree with counsel's description, analysis and conclusion that any challenge to the suppression ruling, plea or sentence would lack arguable merit. Our independent review of the record discloses no other potential issues for appeal. Additionally, there is no factual basis to consider any issues outside of the record, given Mayer's lack of response to the no-merit report and counsel's representation that her own investigation revealed no grounds for relief. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

Upon the foregoing,

IT IS ORDERED that the judgment of conviction is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that attorney Erica Bauer is relieved of any further representation of Brian Mayer in this matter pursuant to 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