



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215

P.O. BOX 1688

MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880

TTY: (800) 947-3529

Facsimile (608) 267-0640

Web Site: www.wicourts.gov

DISTRICT I

August 18, 2020

To:

Hon. T. Christopher Dee
Circuit Court Judge
Milwaukee County Courthouse
901 N. 9th St.
Milwaukee, WI 53233-1425

John Barrett
Clerk of Circuit Court
Room 114
821 W. State Street
Milwaukee, WI 53233

Elizabeth A. Longo
Assistant District Attorney
District Attorney's Office
821 W. State St. - Ste. 405
Milwaukee, WI 53233

Christopher D. Sobiech
Assistant State Public Defender
735 N. Water St., Ste. 912
Milwaukee, WI 53202-4116

Criminal Appeals Unit
Department of Justice
P.O. Box 7857
Madison, WI 53707-7857

Michael Jackson 337414
Waupun Correctional Inst.
P.O. Box 351
Waupun, WI 53963-0351

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

2020AP153-CRNM State of Wisconsin v. Michael Jackson (L.C. # 2017CF3581)

Before Brash, P.J., Dugan and Donald, 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).

Michael Jackson appeals from a judgment, entered upon his guilty pleas, convicting him on one count of first-degree reckless injury and one count of possession of a firearm by a felon. Appellate counsel, Christopher D. Sobiech, has filed a no-merit report pursuant to *Anders v.*

California, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32 (2017-18).¹ Jackson was advised of his right to file a response, but he has not responded. Upon this court’s independent review of the record, as mandated by *Anders*, and counsel’s report, we conclude there are no issues of arguable merit that could be pursued on appeal. We therefore summarily affirm the judgment.

Seventeen-year-old D.A.W. received a text message from someone he knew as “Mike,” asking to purchase marijuana. The two agreed to meet outside a store, where D.A.W. entered the front passenger seat of Mike’s vehicle. D.A.W. gave Mike two or three “dime bags” of marijuana. Mike gave the marijuana back, said, “I’m sorry to do this to you lil bro,” and pulled out a handgun. D.A.W. believed he was going to be robbed. As D.A.W. started to leave the vehicle, Mike shot him in the chest; the bullet exited through the left side of D.A.W.’s stomach. D.A.W. collapsed outside of the vehicle; store customers who knew D.A.W. took him to the hospital. D.A.W. subsequently identified Jackson from a photo array.

Jackson was charged with one count of first-degree reckless injury by use of a dangerous weapon. The information later added a charge of possession of a firearm by a felon. Jackson eventually pled guilty to both charges;² in exchange, the State agreed to dismiss the dangerous weapon penalty enhancer and to make a recommendation of a “lengthy” prison sentence, without specifying numbers. The circuit court accepted Jackson’s pleas and sentenced him to a total of

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

² Just before the case was called for trial, the State filed an amended information that added a charge of attempted armed robbery, a possibility the State had given notice of in the complaint. The case had to be passed for a few minutes while the amended information was processed through the electronic filing system. When the case was recalled, Jackson submitted plea forms to the court, and the State moved to withdraw the amended information. The amended information is not a part of the appellate record, though we note that the transcript adequately discusses its filing and subsequent withdrawal.

nineteen and one-half years of imprisonment for the reckless injury charge, plus a consecutive six years of imprisonment for the gun possession charge.

Appellate counsel first addresses whether Jackson could seek to withdraw his pleas by asserting that they were not knowingly, intelligently, and voluntarily entered. Our review of the record—including the plea questionnaire and waiver of rights form and plea hearing transcript—confirms that the circuit court complied with its obligations for accepting guilty pleas, pursuant to WIS. STAT. § 971.08, *State v. Bangert*, 131 Wis. 2d 246, 261-62, 389 N.W.2d 12 (1986), and *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906. There is no arguable merit to a claim that the circuit court failed to fulfill its obligations in accepting a plea or that Jackson’s pleas were anything other than knowing, intelligent, and voluntary.

Appellate counsel also discusses whether Jackson could seek resentencing on the basis of an erroneous exercise of sentencing discretion or because the sentence was unduly harsh and excessive. See *State v. Gallion*, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197. At sentencing, a court must consider the principal objectives of sentencing, including the protection of the community, the punishment and rehabilitation of the defendant, and deterrence to others, *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76, and determine which objective or objectives are of greatest importance, see *Gallion*, 270 Wis. 2d 535, ¶41. In seeking to fulfill the sentencing objectives, the court should consider a variety of factors, including the gravity of the offense, the character of the offender, and the protection of the public, and may consider other factors. See *State v. Odom*, 2006 WI App 145, ¶7, 294 Wis. 2d 844, 720 N.W.2d 695. The weight to be given to each factor is committed to the circuit court’s discretion. See *id.*

Our review of the record confirms that the court appropriately considered relevant sentencing objectives and factors. The consecutive sentences totaling twenty-five and one-half years of imprisonment are well within the thirty-five-year range authorized by law, *see State v. Scaccio*, 2000 WI App 265, ¶18, 240 Wis. 2d 95, 622 N.W.2d 449, and are not so excessive so as to shock the public’s sentiment, *see Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975).³ Therefore, there is no arguable merit to challenging the court’s sentencing discretion.⁴

Our independent review of the record reveals no other potential issues of arguable merit.

Upon the foregoing, therefore,

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

IT IS FURTHER ORDERED that Attorney Christopher D. Sobic is relieved of further representation of Jackson in this matter. *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

³ Jackson was subject to a mandatory minimum initial confinement term of five years. *See* WIS. STAT. § 973.123(2), (3)(a). The record reflects Jackson was aware of this during the plea process.

⁴ Jackson told the circuit court that he “never intended to hurt anybody. This was not a robbery attempt. It was just me having a drug attack, and I need help for that. I’m asking the court for some type of treatment.” The circuit court thus made Jackson eligible for the substance abuse program. *See* WIS. STAT. §§ 973.01(3g), 302.05(3). The circuit court did not specifically mention the challenge incarceration program. *See* WIS. STAT. § 973.01(3m). Appellate counsel notes, however, that Jackson would be ineligible for that program based on his age. *See* WIS. STAT. § 302.045(2)(b).