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DISTRICT I

June 14, 2022

To:

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

2020AP690-CRNM	State of Wisconsin v. Joseph Henry Lagerman (L.C. # 2017CM4157)
2020AP691-CRNM	State of Wisconsin v. Joseph Henry Lagerman (L.C. # 2018CF316)

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

Joseph Henry Lagerman appeals from judgments, entered upon his guilty pleas, convicting him of two counts of first-degree recklessly endangering safety with use of a dangerous weapon, misdemeanor battery, and resisting an officer. Appellate counsel, Dustin C. Haskell, has filed a no-merit report, pursuant to *Anders v. California*, 386 U.S. 738 (1967), and

WIS. STAT. RULE 809.32 (2019-20).¹ Lagerman was advised of his right to file a response, but he has not responded. Upon this court’s independent review of the records, 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 judgments.²

In Milwaukee County Circuit Court case No. 2017CM4157, Lagerman was charged with disorderly conduct, battery, possession of cocaine, and resisting an officer. These misdemeanor offenses arose from an altercation Lagerman initiated in a gas station. In Milwaukee County Circuit Court case No. 2018CF316, Lagerman was charged with attempted first-degree intentional homicide with use of a dangerous weapon, first-degree recklessly endangering safety with use of a dangerous weapon, and misdemeanor bail jumping. These offenses stemmed from Lagerman firing a gun, in close quarters, at officers responding to a domestic violence call.

Lagerman agreed to resolve his cases with pleas. In the 2017 case, he would plead guilty to the battery and resisting charges. In the 2018 case, the attempted homicide charge would be amended to another count of first-degree recklessly endangering safety with use of a dangerous weapon, and Lagerman would plead guilty to the two endangering safety charges. The other

¹ The convictions in Milwaukee County Circuit Court case No. 2017CM4157 were both misdemeanors. On the court’s own motion, by order dated June 4, 2020, that appeal was converted to a three-judge panel to permit consolidation. *See* WIS. STAT. § 752.31(2)(f) (2019-20); WIS. STAT. RULE 809.41(3) (2019-20); WIS. STAT. RULE 809.10(3) (2019-20).

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

² The notices of appeal in these matters indicate that the appeals are also taken from an order denying a postconviction motion that was entered on March 19, 2020. However, the circuit court actually granted Lagerman’s postconviction motion, which sought to re-order his sentences so that he would “have a meaningful opportunity to participate in the Substance Abuse Program.” Lagerman cannot appeal from an order that is not adverse to him. *See* WIS. STAT. RULE 809.10(4).

three misdemeanor charges in the cases would be dismissed and read in. The circuit court conducted a plea colloquy with Lagerman, accepted his pleas, and later imposed concurrent and consecutive sentences totaling thirty-three years' imprisonment.

The first potential issue appellate counsel discusses is whether Lagerman should be allowed to withdraw his pleas as not knowing, intelligent, and voluntary. Our review of the record—including the plea questionnaire and waiver of rights forms and addenda, attached jury instructions, and plea hearing transcript—confirms that the circuit court complied with its obligations for taking guilty pleas, pursuant to WIS. STAT. § 971.08, *State v. Bangert*, 131 Wis. 2d 246, 261-62, 389 N.W.2d 12 (1986), and subsequent cases, as collected in *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 properly conduct a plea colloquy or that Lagerman's pleas were anything other than knowing, intelligent, and voluntary.

The other potential issue appellate counsel discusses is whether Lagerman could appeal his sentences based on a claim that the circuit court erroneously exercised its sentencing discretion. See *State v. Gallion*, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197. Our review of the record confirms that the court appropriately considered relevant sentencing objectives and factors. The thirty-three-year sentence imposed is within the thirty-six and one-half-year range authorized by law, see *State v. Scaccio*, 2000 WI App 265, ¶18, 240 Wis. 2d 95, 622 N.W.2d 449, and, under the circumstances, is 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). There would be no arguable merit to a challenge to the court's sentencing discretion.

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

Upon the foregoing, therefore,

IT IS ORDERED that the judgments are summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Dustin C. Haskell is relieved of further representation of Lagerman in these matters. *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