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DISTRICT I

September 24, 2024

To:

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Circuit Court Judge
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Anna Hodges
Clerk of Circuit Court
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Michael S. Holzman
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Ladarin C. Coffee 711528
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You are hereby notified that the Court has entered the following opinion and order:

2023AP2140-CRNM State of Wisconsin v. Ladarin C. Coffee (L.C. # 2020CF3151)

Before Donald, P.J., Geenen and Colón, 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).

Ladarin C. Coffee appeals from a judgment convicting him of second-degree reckless homicide with the use of a dangerous weapon as a party to a crime. Appellate counsel, Michael S. Holzman, has filed a no-merit report, pursuant to *Anders v. California*, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32 (2021-22).¹ Coffee filed multiple responses and counsel filed a supplemental no-merit report. Upon consideration of the parties' filings and an independent review of the record, as mandated by *Anders*, we conclude that the judgment may

¹ All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

be summarily affirmed because there is no arguable merit to any issue that could be raised on appeal. *See* WIS. STAT. RULE 809.21.

Initially, the State charged Coffee with first-degree reckless injury while armed as a party to a crime. According to the complaint, Coffee and his sister, Alisha Byrd, got into an argument with Byrd's boyfriend, C.E.G. All of the individuals were highly intoxicated. After C.E.G. tried to choke Byrd, she and Coffee both grabbed knives and stabbed him. C.E.G. ultimately died from his injuries.

Following C.E.G.'s death, the State filed an amended information charging Coffee with second-degree reckless homicide while armed as a party to a crime. Coffee pled guilty to the charge. The plea negotiations left both parties free to argue as to the length of the sentence Coffee should serve. Following a thorough colloquy, the circuit court accepted Coffee's plea.²

The circuit court ordered Coffee to serve a twenty-six year sentence, comprised of eighteen years of initial confinement and eight years of extended supervision.³ Coffee did not object to paying restitution. This no-merit appeal follows.

The no-merit report addresses whether Coffee's plea was entered knowingly, voluntarily, and intelligently. The plea colloquy sufficiently complied with the requirements of *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906, and WIS. STAT. § 971.08 relating to the nature of the charge, the rights Coffee was waiving, and other matters. The record shows no other ground to withdraw the plea. There is no arguable merit to this issue.

² The Honorable Stephanie Rothstein accepted Coffee's plea.

³ The Honorable Mark A. Sanders sentenced Coffee.

The no-merit report addresses Coffee's sentence. The sentence is within the legal maximum. As to discretionary issues, the standards for the circuit court and this court 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. In this case, the court considered appropriate factors, did not consider improper factors, and reached a reasonable result. There is no arguable merit to this issue.

The no-merit report additionally addresses whether the circuit court properly considered Coffee's health⁴ in its sentence and whether Coffee's mother's alleged recantation had any effect on the evidence supporting the guilty plea. The alleged recantation related to remarks Coffee's mother made to the police about Coffee's behavior following the crime. The record, however, indicates that the remarks had little or nothing to do with the strength of the evidence that the State relied upon. Additionally, we agree with the no-merit report's conclusion that the circuit court properly exercised its discretion when it placed more weight on the gravity of the offense than it did on Coffee's medical condition.

Coffee makes numerous claims in his responses, many of which relate to trial counsel's performance. Coffee's claims include the following: (1) trial counsel failed to review police reports that Coffee claims were false and incorrect in that they purportedly attributed false statements to Coffee's mother; (2) trial counsel refused to challenge Byrd's statements, which Coffee contends were false; (3) trial counsel failed to show him the videos of a witness's interview with police, which Coffee claims revealed that the victim never identified him as the perpetrator; (4) due to his learning disability, Coffee did not understand what was going on in the

⁴ Coffee has cerebral palsy and this was acknowledged by the circuit court during the sentencing hearing.

case, but trial counsel moved forward anyway; (5) trial counsel failed to investigate the cause of death and footage from cameras at the house showing what transpired; and (6) trial counsel never told Coffee he had a defense he could use at trial—namely, that he feared for his safety and C.E.G. attacked him after he tried to stop C.E.G. from hurting Byrd—so he pled guilty.

As to Coffee’s last claim, the record reflects that trial counsel sought an adjournment in order to locate witnesses present at the crime scene in order to “better determine if I have a self-defense claim.” Two months later, Coffee entered his guilty plea. The addendum to the plea questionnaire and waiver of rights form that he signed, which Coffee read and also had read to him, provided that Coffee understood he was giving up defenses, including self-defense. Coffee signed the addendum.

Moreover, during the plea colloquy, the circuit court made a point to verify that Coffee understood the court would not “hear anymore motions from you on identification nor statements or searches because you’re telling me you’re pleading guilty today?” Coffee responded affirmatively. The court continued: “I’m also not going to hear any defenses from you. In other words, the [c]ourt’s not going to hear that: I have a mental illness or I acted in self-defense. Those are just examples. But I’m not going to hear any defenses from you[?]” Again, Coffee responded affirmatively.

During the colloquy, the circuit court asked the prosecutor to detail what he believed he could prove if the case went to trial. The court then asked Coffee if everything the prosecutor said was true and correct, and Coffee responded that some of it was true and some of it amounted to lies. Coffee subsequently admitted to the court that he stabbed C.E.G. with a knife and that his conduct was criminally reckless. The court then took a recess so that Coffee could confer

with trial counsel off the record. Following the recess, Coffee confirmed for the court that trial counsel had answered all of his questions and the agreed upon facts were true and correct.

Insofar as Coffee now suggests that trial counsel was ineffective for not doing more to investigate the circumstances of the crime and speculates as to what the investigation would have revealed, this is insufficient to support a claim of ineffective assistance of counsel. *See State v. Erickson*, 227 Wis. 2d 758, 774, 596 N.W.2d 749 (1999) (explaining that speculation is insufficient to satisfy the prejudice prong of an ineffective assistance of counsel claim, which requires both deficient performance and prejudice). We agree with the no-merit report's conclusion that Coffee's various claims lack arguable merit. We additionally note that by entering his valid guilty plea, Coffee forfeited the right to raise any nonjurisdictional defects or defenses. *See generally State v. Kelty*, 2006 WI 101, ¶18 & n.11, 294 Wis. 2d 62, 716 N.W.2d 886 (discussing the guilty plea waiver rule).

To the extent that we have not addressed a specific contention of Coffee's in this opinion, we have nonetheless considered his concerns in light of the record. Our review discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit report, affirms the judgment, and discharges appellate counsel of the obligation to represent Coffee further in this appeal.

Therefore,

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

IT IS FURTHER ORDERED that Attorney Michael S. Holzman is relieved of further representation of Coffee 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