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DISTRICT III

December 10, 2024

To:

Hon. Thomas W. Clark
Circuit Court Judge
Electronic Notice

Jennifer L. Vandermeuse
Electronic Notice

Julie Vollmer
Clerk of Circuit Court
Buffalo County Courthouse
Electronic Notice

Jacob Isaiah Laite 721064
Stanley Correctional Inst.
100 Corrections Dr.
Stanley, WI 54768

Thomas Brady Aquino
Electronic Notice

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

2024AP205-CRNM State of Wisconsin v. Jacob Isaiah Laite (L. C. No. 2021CF17)

Before Stark, P.J., Hruz and Gill, 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).

Counsel for Jacob Isaiah Laite has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2021-22),¹ concluding that no grounds exist to challenge Laite's judgment of conviction for one count of strangulation and suffocation. Laite was informed of his right to file a response to the no-merit report, but he has not responded. Pursuant to an order of this court, appellate counsel filed a supplemental no-merit report addressing a potential issue involving sentence credit. Having reviewed the no-merit report and supplemental no-merit report, and

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

upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude that there is no arguable merit to any issue that could be raised on appeal. Therefore, we summarily affirm the judgment of conviction. *See* WIS. STAT. RULE 809.21.

The State charged Laite with one count of strangulation and suffocation and one count of misdemeanor battery, the latter as an act of domestic abuse. According to the criminal complaint, the victim reported to law enforcement that during an argument, Laite put her in a “choke hold” and choked her until she passed out. The victim also reported that during a separate incident on the same day, Laite “placed his hand on her throat and pushed as hard as he could,” which impeded her breathing and caused her pain.

Laite ultimately entered guilty pleas to both charges, pursuant to a plea agreement. Under the plea agreement, the parties entered into a deferred judgment of conviction agreement (DJCA) with respect to the strangulation and suffocation charge. If Laite complied with the DJCA’s terms for a three-year period, including committing no new crimes, the strangulation and suffocation charge would be dismissed. The plea agreement also required a joint recommendation of court costs on the misdemeanor battery charge and the dismissal of a disorderly conduct charge in another case.

Following a plea colloquy, supplemented by a plea questionnaire and waiver of rights form, the circuit court accepted Laite’s guilty pleas, finding that they were knowingly, voluntarily, and intelligently made. Laite’s attorney stipulated that the court could rely on the criminal complaint as the factual basis for Laite’s pleas, and the court found that an adequate factual basis existed. The court then approved the DJCA with respect to the strangulation and

suffocation charge, imposed court costs on the misdemeanor battery charge, and dismissed the disorderly conduct charge.

On June 22, 2022, the State moved to revoke the DJCA based on new criminal charges that had been filed against Laite in Ohio. Laite did not contest the revocation of the DJCA. The circuit court subsequently sentenced Laite to three years of initial confinement followed by three years of extended supervision on the strangulation and suffocation charge, consecutive to a sentence that Laite was then serving in Minnesota.

The parties disagreed regarding the appropriate amount of sentence credit. Laite asserted that he was entitled to fifty-seven days of sentence credit, but the State claimed that he was entitled to only seven days. The circuit court directed the parties to file briefs regarding the appropriate amount of sentence credit. Laite's attorney subsequently wrote to the court stating that, upon further investigation, she agreed with the State that Laite was entitled to only seven days of credit. Laite's judgment of conviction was later amended to award him seven days of sentence credit on the strangulation and suffocation charge.

The no-merit report addresses: (1) whether Laite's guilty pleas were knowing, intelligent, and voluntary; and (2) whether the circuit court erroneously exercised its sentencing discretion. We agree with counsel's description, analysis, and conclusion that these potential issues lack arguable merit, and we therefore do not address them further.²

² We note that Laite appeared by videoconferencing at both the initial plea and sentencing hearing and his later sentencing hearing on the strangulation and suffocation charge. The record shows that Laite waived his right to personally appear at both of those hearings. *See State v. Soto*, 2012 WI 93, ¶¶46-49, 343 Wis. 2d 43, 817 N.W.2d 848. Any challenge to those proceedings based on Laite's appearance by videoconferencing would therefore lack arguable merit.

Following our review of the no-merit report, we ordered appellate counsel to provide additional input as to whether an issue of arguable merit existed regarding Laite’s sentence credit on the strangulation and suffocation charge. Appellate counsel then filed a supplemental no-merit report, with an attached affidavit and supporting documents. In the supplemental no-merit report, appellate counsel explains that aside from the seven days of credit awarded to Laite, the remaining days of custody “were only in connection [with] a separate disorderly conduct charge and conviction in Buffalo County Case No. 21-CM-67, and in connection with an extradition proceeding and warrant obtained by Minnesota authorities in Buffalo County Case No. 21-CF-74.” Based on the additional information provided in the supplemental no-merit report, appellate counsel’s affidavit, and the supporting documents, we agree with appellate counsel that any claim that Laite is entitled to additional sentence credit would lack arguable merit.

Our independent review of the record discloses no other potential issues for appeal.

Therefore,

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

IT IS FURTHER ORDERED that Attorney Thomas Brady Aquino is relieved of further representation of Jacob Isaiah Laite 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