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**DISTRICT II**

July 31, 2013

To:

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

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2013AP1131-CRNM      State of Wisconsin v. Vernon E. Nease, III (L.C. #2011CF542)

Before Brown, C.J., Reilly and Gundrum, JJ.

Vernon E. Nease, III, appeals from a judgment convicting him of two counts of burglary of a building or dwelling, one count of theft of movable property, and one count of intentionally mistreating animals, all as a party to a crime. Nease's appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2011-12)<sup>1</sup> and *Anders v. California*, 386 U.S. 738 (1967). Nease received a copy of the report, was advised of his right to file a response, and has elected

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2011-12 version.

not to do so. After reviewing the record and counsel's report, we conclude that there are no issues with arguable merit for appeal. Therefore, we summarily affirm the judgment. *See* RULE 809.21.

The no-merit report addresses the following appellate issues: (1) whether Nease's guilty pleas were knowingly, intelligently, and voluntarily entered; and (2) whether the circuit court erroneously exercised its discretion at sentencing.

With respect to the entry of the guilty pleas, the record shows that the circuit court engaged in a colloquy with Nease that satisfied the requirements of WIS. STAT. § 971.08(1)(a), *State v. Bangert*, 131 Wis. 2d 246, 266-72, 389 N.W.2d 12 (1986), and *State v. Hampton*, 2004 WI 107, ¶¶33, 38, 274 Wis. 2d 379, 683 N.W.2d 14.<sup>2</sup> In addition, a signed plea questionnaire and waiver of rights form was entered into the record. The court referred to that form when discussing the rights Nease was giving up by entering his pleas. This was permissible under *State v. Moederndorfer*, 141 Wis. 2d 823, 827, 416 N.W.2d 627 (Ct. App. 1987). We agree with counsel that any challenge to the entry of Nease's guilty pleas would lack arguable merit.

With respect to the sentence imposed, the record reveals that the circuit court's decision had a "rational and explainable basis." *State v. Gallion*, 2004 WI 42, ¶76, 270 Wis. 2d 535, 678 N.W.2d 197. In imposing an aggregate sentence of eleven years of imprisonment and nine months in jail, the court considered the seriousness of the offenses, Nease's character, and the

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<sup>2</sup> There is one exception to this. The circuit court failed to provide the deportation warning required by WIS. STAT. § 971.08(1)(c). This failure does not present a potentially meritorious issue for appeal, however, as there is no indication that Nease's pleas are likely to result in his deportation, exclusion from admission to this country, or denial of naturalization. WIS. STAT. § 971.08(2).

need to protect the public. *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. Under the circumstances of the case, which were aggravated by Nease’s lengthy criminal record, the court’s decision does not “shock public sentiment and violate the judgment of reasonable people concerning what is right and proper.” *Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). Accordingly, we agree with counsel that a challenge to the circuit court’s decision at sentencing would lack arguable merit.

Our independent review of the record does not disclose any potentially meritorious issue for appeal. Because we conclude that there would be no arguable merit to any issue that could be raised on appeal, we accept the no-merit report and relieve Attorney Kaitlin A. Lamb of further representation in this matter.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Kaitlin A. Lamb is relieved of further representation of Nease in this matter.

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*Diane M. Fremgen*  
*Clerk of Court of Appeals*