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August 13, 2013

To:

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

2013AP704-CRNM State of Wisconsin v. Alexander A. Salinas (L.C. # 2010CF4991)

Before Hoover, P.J., Mangerson and Stark, JJ.

Counsel for Alexander A. Salinas has filed a no-merit report concluding there is no arguable basis for appealing judgments convicting Salinas of two felonies and two misdemeanors and imposing concurrent sentences totaling three years' initial confinement and two years' extended supervision, consecutive to Salinas' federal sentence. Salinas was advised of his right to respond to the report and has not responded. Upon our independent review of the record as

mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude there is no arguable basis for appeal.

Salinas was initially charged with burglary, second-degree sexual assault, felony bail jumping, and misdemeanor battery. The complaint alleged that he kicked in the door of his ex-girlfriend's residence after seeing a male subject in front of her house. Salinas said he wanted to check her to see if she had intercourse with that man. He then pulled off her shorts and penetrated her vagina with his fingers, dragged her by the hair to another room and repeatedly struck her. The victim's five-year-old daughter witnessed the attack. When the victim's sister and sister's boyfriend intervened, Salinas was able to flee, but his black shirt was ripped off of him. A detective responding to the scene observed damage to the door, its framing and the drywall, and recovered the ripped, black shirt. The complaint also alleged that Salinas was on bond in a felony case at the time of the attack.

Salinas was bound over after a preliminary hearing. The magistrate found probable cause based on the testimony of other witnesses. The State later filed an amended complaint adding two counts of felony intimidation of a witness. After Salinas was sentenced to 120 months in federal prison in another case, the parties entered a plea agreement in which Salinas agreed to plead guilty to reduced charges of fourth-degree sexual assault, misdemeanor battery, felony bail jumping, and one count of felony intimidation of a witness. The remaining counts were

dismissed. The court sentenced Salinas to concurrent terms totaling three years' initial confinement and two years' extended supervision, consecutive to his federal sentence.¹

The record discloses no arguable manifest injustice upon which Salinas could withdraw his guilty pleas. See *State v. Duychak*, 133 Wis. 2d 307, 312, 395 N.W.2d 795 (Ct. App. 1986). The court's colloquy, supplemented by a plea questionnaire and waiver of rights form with attached jury instructions, informed Salinas of the elements of the offenses, the potential penalties and the constitutional rights he waived by pleading guilty. The court also informed Salinas that its sentencing discretion was not limited by the parties' recommendations. See *State v. Hampton*, 2004 WI 107, ¶2, 274 Wis. 2d 379, 683 N.W.2d 14. The record shows the pleas were knowingly, voluntarily and intelligently entered. See *State v. Bangert*, 131 Wis. 2d 246, 257, 389 N.W.2d 12 (1986).

The record also discloses no arguable basis for challenging the sentencing court's discretion. The court could have imposed sentences totaling sixteen years' imprisonment. The court appropriately considered the seriousness of the offenses, Salinas' character and the need to protect the public. See *State v. Harris*, 119 Wis. 2d 612, 623, 350 N.W.2d 633 (1984). The court considered no improper factors and the sentences imposed are not arguably so excessive as to shock public sentiment. See *Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975).

Our independent review of the record discloses no other potential issue for appeal. Therefore,

¹ The initial judgment of conviction entered by Judge Richard Sankovitz required Salinas to pay the DNA surcharge. Following an earlier no-merit report that was dismissed, Judge Charles F. Kahn, Jr. amended the judgment to remove the DNA surcharge.

IT IS ORDERED that the amended judgment of conviction is summarily affirmed. WIS. STAT. RULE 809.21 (2011-12).

IT IS FURTHER ORDERED that attorney Randall Paulson is relieved of his obligation to further represent Salinas in this matter. WIS. STAT. RULE 809.32(3) (2011-12).

Diane M. Fremgen
Clerk of Court of Appeals