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DISTRICT IV

November 26, 2013

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

2012AP2546-CRNM State of Wisconsin v. Christopher A. Jordan-Davis
(L.C. # 2011CF1356)

Before Blanchard, P.J., Lundsten and Kloppenburg, JJ.

Attorney Shelley Fite, appointed counsel for Christopher Jordan-Davis, has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 and ***Anders v. California***, 386 U.S. 738, 744 (1967). The no-merit report addresses the validity of Jordan-Davis's plea and sentencing. Jordan-Davis was provided a copy of the report, but has not filed a response. Upon independently reviewing the entire record, as well as the no-merit report, we agree with counsel's assessment that there are no arguably meritorious appellate issues. Accordingly, we affirm.

Jordan-Davis was charged with first-degree reckless injury by use of a dangerous weapon and carrying a concealed weapon, based on an incident in which Jordan-Davis stabbed another man in a fight. At the preliminary hearing, a doctor testified as to the victim's injuries, and the victim testified as to the fight. Following the hearing, the State filed an information charging Jordan-Davis with attempted first-degree intentional homicide, first-degree reckless injury by use of a dangerous weapon, and carrying a concealed weapon. Pursuant to a plea agreement, Jordan-Davis pled no-contest to an amended charge of second-degree reckless injury by use of a dangerous weapon. The court sentenced Jordan-Davis to six years and six months of initial confinement, and four years of extended supervision.

First, the no-merit report addresses whether there would be arguable merit to a challenge to the validity of Jordan-Davis's plea. A post-sentencing motion for plea withdrawal must establish that plea withdrawal is necessary to correct a manifest injustice, such as a plea that was not knowing, intelligent, and voluntary. ***State v. Brown***, 2006 WI 100, ¶18, 293 Wis. 2d 594, 716 N.W.2d 906. Here, the circuit court conducted a plea colloquy that satisfied the court's mandatory duties to personally address Jordan-Davis and determine information such as Jordan-Davis's understanding of the nature of the charges and the range of punishments he faced, the constitutional rights he waived by entering a plea, and the direct consequences of the plea.[1] *See* ***State v. Hoppe***, 2009 WI 41, ¶18, 317 Wis. 2d 161, 765 N.W.2d 794. There is no indication of

[1] The circuit court did not explicitly inquire as to Jordan-Davis's education and general comprehension level, or whether any promises or threats had been made to Jordan-Davis to obtain his plea. However, that information was set forth in the plea questionnaire, and Jordan-Davis affirmed that he had gone over that form with his attorney and understood it before signing it. Additionally, counsel informs us that counsel is unaware of any information that would support a claim that Jordan-Davis did not understand any information essential to the plea, and Jordan-Davis has not filed a response. Accordingly, we determine that a challenge to Jordan-Davis's plea on this basis would lack arguable merit.

any other basis for plea withdrawal. Accordingly, we agree with counsel's assessment that a challenge to Jordan-Davis's plea would lack arguable merit.

Next, the no-merit report addresses whether there would be arguable merit to a challenge to Jordan-Davis's sentence. A challenge to a circuit court's exercise of its sentencing discretion must overcome our presumption that the sentence was reasonable. ***State v. Ramuta***, 2003 WI App 80, ¶23, 261 Wis. 2d 784, 661 N.W.2d 483. Here, the court explained that it considered the facts pertinent to the standard sentencing factors and objectives, including the gravity of the offense, Jordan-Davis's character, and the need to protect the public. *See* ***State v. Gallion***, 2004 WI 42, ¶¶17-51, 270 Wis. 2d 535, 678 N.W.2d 197. The sentence was within the applicable penalty range. *See* WIS. STAT. §§ 940.23(2)(a); 939.50(3)(f); 939.63(1)(b); 973.01(2)(b)6m. The sentence was not so excessive or unduly harsh as to shock the conscience. *See* ***State v. Grindemann***, 2002 WI App 106, ¶31, 255 Wis. 2d 632, 648 N.W.2d 507. Additionally, the court granted Jordan-Davis 348 days of sentence credit, on counsel's stipulation. We discern no erroneous exercise of the court's sentencing discretion.

Upon our independent review of the record, we have found no other arguable basis for reversing the judgment of conviction. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of ***Anders*** and WIS. STAT. RULE 809.32.

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

IT IS FURTHER ORDERED that Attorney Fite is relieved of any further representation of Jordan-Davis in this matter. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals