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**DISTRICT III**

April 22, 2014

To:

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

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2013AP1653-CRNM      State of Wisconsin v. James E. Jones (L. C. #2012CF641)

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

Counsel for James Jones has filed a no-merit report concluding no grounds exist to challenge Jones's convictions for possession with intent to deliver between five and fifteen grams of cocaine, as a second and subsequent offense, and felon in possession of a firearm, as a repeater. Jones was informed of his right to file a response to the no-merit 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 merit to any issue that could be raised on

appeal. Therefore, we summarily affirm the judgment of conviction. *See* WIS. STAT. RULE 809.21 (2011-12).<sup>1</sup>

An Information charged Jones with obstructing an officer; possession of THC as a second and subsequent offense, and within 1000 feet of a school; possession with intent to deliver between five and fifteen grams of cocaine, as a second and subsequent offense, with use of a dangerous weapon, and within 1000 feet of a school; felon in possession of a firearm; and possession of drug paraphernalia—all five counts as a repeater. Jones ultimately agreed to plead no contest to possession with intent to deliver between five and fifteen grams of cocaine as a second and subsequent offense (without the repeater, dangerous weapon or “near a school” enhancers), and felon in possession of a firearm as a repeater. In exchange for his no contest pleas, the State agreed to dismiss and read in the remaining charges and cap its sentence recommendation at five years’ initial confinement followed by five years’ extended supervision on the possession with intent to deliver cocaine charge, with a consecutive five-year sentence on the felon in possession of a firearm charge, consisting of two years’ initial confinement and three years’ extended supervision. Out of a maximum possible thirty-three-year sentence, the court imposed consecutive sentences totaling eighteen years, consisting of eight years’ initial confinement and ten years’ extended supervision, to run consecutive to any sentence Jones was then serving.

The record discloses no arguable basis for withdrawing Jones’s no contest pleas. The court’s plea colloquy, as supplemented by a plea questionnaire and waiver of rights form that

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

Jones completed, informed Jones of the elements of the offenses, the penalties that could be imposed, and the constitutional rights he waived by entering no contest pleas. The court confirmed Jones's understanding that it was not bound by the terms of the plea agreement, *see State v. Hampton*, 2004 WI 107, ¶2, 274 Wis. 2d 379, 683 N.W.2d 14, and also advised Jones of the deportation consequences of his pleas, as mandated by WIS. STAT. § 971.08(1)(c). Additionally, the court found that a sufficient factual basis existed in the criminal complaint to support the conclusion that Jones committed the crimes charged. The record shows the pleas were knowingly, voluntarily and intelligently made. *See State v. Bangert*, 131 Wis. 2d 246, 257, 389 N.W.2d 12 (1986).

The record discloses no arguable basis for challenging the sentence imposed. Before imposing a sentence authorized by law, the court considered the seriousness of the offenses; Jones's character, including his criminal history; the need to protect the public; and the mitigating factors Jones raised. *See State v. Gallion*, 2004 WI 42, 270 Wis. 2d 535, 678 N.W.2d 197. Under these circumstances, it cannot reasonably be argued that Jones's sentence is 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,

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

IT IS FURTHER ORDERED that attorney Michelle L. Velasquez is relieved of further representing Jones in this matter. *See* WIS. STAT. RULE 809.32(3).

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