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**DISTRICT I/IV**

May 23, 2014

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

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2013AP1291-CRNM      State of Wisconsin v. Seymone C. Triplett (L.C. # 2012CF2148)

Before Lundsten, Higginbotham and Sherman, JJ.

Attorney Michael Holzman, appointed counsel for Seymone Triplett, has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32; *Anders v. California*, 386 U.S. 738, 744 (1967). The no-merit report addresses whether there would be arguable merit to any appellant issues based on: (1) Triplett's guilty plea to second-degree reckless homicide; or (2) the circuit court's sentence of fifteen years of initial confinement and ten years of extended supervision. Triplett was provided a copy of the report but has not filed a response; however, our file includes letters Triplett sent to this court prior to the filing of the no-merit report. Upon independently reviewing the entire record, as well as the no-merit report and

Triplett's letters, we agree with counsel's assessment that there are no arguably meritorious appellate issues. Accordingly, we affirm.

Triplett was charged with one count of second-degree reckless homicide by use of a dangerous weapon following an altercation between Triplett and the victim, Roderick Williams, that culminated in Triplett stabbing Williams one time in the chest, causing his death. Pursuant to a plea agreement, Triplett pled guilty to second-degree reckless homicide and the dangerous weapon enhancer was dismissed.

First, the no-merit report addresses whether there would be arguable merit to a challenge to the validity of Triplett'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 Triplett and determine information such as Triplett's understanding of the nature of the charge and the range of punishments she faced, the constitutional rights she waived by entering a plea, and the direct consequences of the plea. *See State v. Hoppe*, 2009 WI 41, ¶18, 317 Wis. 2d 161, 765 N.W.2d 794. There is no indication of any other basis for plea withdrawal. Accordingly, we agree with counsel's assessment that a challenge to Triplett's plea would lack arguable merit. Because Triplett's plea was validly entered, her plea waived all non-jurisdictional defects and defenses. *See State v. Kelty*, 2006 WI 101, ¶18, 294 Wis. 2d 62, 716 N.W.2d 886. Thus, to the extent Triplett's letters to this court assert defenses she could have raised to the homicide charge, those defenses were waived by Triplett's valid guilty plea.

Next, the no-merit report addresses whether there would be arguable merit to a challenge to Triplett's sentence. Triplett asserts in her letters to this court that she believes she received too long of a sentence. However, a challenge to a circuit court's exercise of its sentencing discretion must overcome the 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 standard sentencing factors and objectives, including the seriousness of the offense, Triplett'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 court determined that the maximum sentence for reckless homicide was appropriate based on the facts of this case. The sentence was not "so excessive and unusual and so disproportionate to the offense committed as to shock public sentiment and violate the judgment of reasonable people concerning what is right and proper under the circumstances." *Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). We discern no erroneous exercise of the court's sentencing discretion.

Finally, counsel states in the no-merit report that he has determined that a challenge to the imposition of a DNA surcharge would have arguable merit, but that Triplett does not want to pursue that issue.

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 Holzman is relieved of any further representation of Triplett in this matter. *See* WIS. STAT. RULE 809.32(3).

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