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**DISTRICT I/III**

August 12, 2014

To:

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

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2014AP256-CRNM      State of Wisconsin v. Charles Romell Wardell  
(L. C. #2012CF713)

Before Hoover, P.J., Stark, J., and Thomas Cane, Reserve Judge.

Counsel for Charles Wardell has filed a no-merit report concluding there is no basis to challenge Wardell's conviction for armed robbery with threat of force as a party to a crime. Wardell was advised of his right to respond 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 and summarily affirm.

The criminal complaint alleged police responded to a robbery at the Northtown Cinema in Milwaukee. A masked individual entered the general manager's office with a screwdriver in his hand and stated, "Do you want to live?" The individual ordered the manager to remove a lock box below the surveillance monitor and also remove the battery supply operating the video surveillance.

The individual then said, "Where's the money?" The manager replied it was in the safe. The individual forced the manager to place the money from the safe into a bag the suspect had in his pocket. The manager was then led into a room and forced to lie on the ground. After several minutes, the manager called police.

Surveillance tapes from the theatre during the two days leading up to the incident showed an individual matching the description of the suspect attending a movie and remaining in the theatre long after the movie was over. On the next evening, the individual returned but entered an auditorium that was not playing a movie before going to an auditorium where a movie was playing. The individual paid with a credit card, and it was determined the individual was Wardell. A rope was also provided to police that was discovered the night prior to the robbery during cleaning of the theatre. DNA samples from the rope were a positive match for Wardell.

Wardell admitted he entered the theatre through a door that had been propped open, entered the manager's office and took approximately \$10,000. A co-defendant also provided a statement to police admitting he went with Wardell to commit the burglary, they entered through a door that had been propped open, and Wardell stated to him that they were waiting for the manager.

Wardell pleaded guilty to the crime as charged in the Information. The circuit court imposed four years' initial incarceration and three years' extended supervision.

There is no manifest injustice upon which Wardell could withdraw his plea. *See State v. Duychak*, 133 Wis. 2d 307, 312, 395 N.W.2d 795 (Ct. App. 1986). The court's colloquy, together with the plea questionnaire and waiver of rights form, informed Wardell of the constitutional rights he waived by pleading guilty, the elements of the offense and the potential penalty. The court specifically advised Wardell it was not bound by the parties' agreement and could impose the maximum penalty. An adequate factual basis supported the conviction. The court also properly advised Wardell of the potential deportation consequences of his plea. The record shows the plea was knowingly, voluntarily and intelligently entered. *See State v. Bangert*, 131 Wis. 2d 246, 260, 389 N.W.2d 12 (1986). Entry of a valid guilty plea constitutes a waiver of nonjurisdictional defects and defenses. *Id.* at 265-66.

The record also discloses no basis for challenging the court's sentencing discretion. The court considered Wardell's character, the seriousness of the offense and the need to protect the public. *See State v. Harris*, 119 Wis. 2d 612, 623, 350 N.W.2d 633 (1984). Wardell faced forty years' imprisonment. The court's sentence was far less than allowable and therefore presumptively neither harsh nor excessive. *See State v. Grindemann*, 2002 WI App 106, ¶32, 255 Wis. 2d 632, 648 N.W.2d 507.

Our independent review of the record discloses no other issues of arguable merit. Therefore,

IT IS ORDERED that the judgment is summarily affirmed pursuant to WIS. STAT. RULE 809.21 (2011-12).

IT IS FURTHER ORDERED that attorney Angela Kachelski is relieved of further representing Wardell in this matter.

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