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DISTRICT II

March 11, 2015

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

2014AP1102-CRNM State of Wisconsin v. Joel Lee, Jr. (L.C. #2012CF1096)

Before Neubauer, P.J., Reilly and Gundrum, JJ.

Joel Lee, Jr., appeals a judgment convicting him of failure to update information required for his sex offender registration. Lee's appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2013-14)¹ and *Anders v. California*, 386 U.S. 738 (1967). Lee received a copy of the report, was advised of his right to file a response, and has elected not to do so. After

¹ All references to the Wisconsin Statutes are to the 2013-14 version.

reviewing the record and counsel's report, we conclude that there are no issues with arguable merit for appeal. Therefore, we summarily affirm the judgment. WIS. STAT. RULE 809.21.

On October 4, 2012, the State filed a complaint against Lee for failing to update information (a new address) required for his sex offender registration. Lee pled no contest to the charged offense, and the circuit court imposed one year of probation. This no-merit appeal followed.

The no-merit report first addresses whether Lee's no contest plea was knowingly, voluntarily, and intelligently entered. The record shows that the circuit court engaged in a colloquy with Lee that satisfied the applicable requirements of WIS. STAT. § 971.08(1)(a) and *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906.² In addition, a signed plea questionnaire and waiver of rights form was entered into the record. That form is competent evidence of a valid plea. See *State v. Moederndorfer*, 141 Wis. 2d 823, 827-29, 416 N.W.2d 627 (Ct. App. 1987). We agree with counsel that a challenge to the entry of Lee's no contest plea would lack arguable merit.

The no-merit report also addresses whether the circuit court properly exercised its discretion at sentencing. The record reveals that the circuit court's decision to impose one year of probation had a "rational and explainable basis." *State v. Gallion*, 2004 WI 42, ¶76, 270 Wis. 2d 535, 678 N.W.2d 197. Even if it did not, a challenge to the length of probation would be

² There is one exception to this. The circuit court failed to provide the deportation warning required by WIS. STAT. § 971.08(1)(c). This failure does not present a potentially meritorious issue for appeal, however, as there is no indication that Lee's plea is likely to result in his deportation, exclusion from admission to this country, or denial of naturalization. Sec. 971.08(2).

moot, as Lee has already completed it. *See State v. Barfell*, 2010 WI App 61, ¶9, 324 Wis. 2d 374, 782 N.W.2d 437 (issue moot when “[n]othing we order can have any practical legal effect”). Accordingly, we agree with counsel that a challenge to the circuit court’s decision at sentencing would lack arguable merit.

Our independent review of the record does not disclose any potentially meritorious issue for appeal.³ Because we conclude that there would be no arguable merit to any issue that could be raised on appeal, we accept the no-merit report and relieve Attorney Cheryl A. Ward of further representation in this matter.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Cheryl A. Ward is relieved of further representation of Lee in this matter.

Diane M. Fremgen
Clerk of Court of Appeals

³ Prior to entering his no contest plea, counsel for Lee requested a competency evaluation. The circuit court appointed an expert who opined that Lee was competent to proceed. Given this opinion, which the circuit court accepted, we are satisfied that a challenge to Lee’s competency does not present a potentially meritorious issue for appeal.