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**DISTRICT III**

March 31, 2015

To:

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

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2014AP734-CRNM      State v. Beau E.J. Farias (L. C. No. 2013CF111)

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

Counsel for Beau Farias has filed a no-merit report concluding there is no basis to challenge Farias's conviction for burglary as a repeater. Farias 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 on appeal and summarily affirm.

The criminal complaint alleged Farias burglarized the El Jalapeno Mexican Restaurant in Wausau. When the business owner arrived in the morning, he noticed one of the doors open,

with a pry mark on the door latch, and money was taken from the cash register. He also noticed someone had cooked food on the grill.

Police met with the property manager to review video footage, and recognized Farias from numerous police contacts. Farias was observed near the hostess station/cash register, opening the cash register and removing bills. Subsequently, Farias was observed in the kitchen area, removing items from the cooler and cooking on the grill.

Farias was later arrested at a local motel and admitted to police he had been “high on meth and ha[d] not slept in 7 days.” Police found in plain view in Farias’s motel room rolls of coins, packages of San Pablo brand tortillas, and a Styrofoam container of cooked chicken. Police confirmed El Jalapeno used San Pablo brand flour tortillas, and rolls of coins were among the cash stolen during the burglary.

Farias was charged with burglary, theft and bail jumping. He pled no contest to burglary, and the remaining charges were dismissed and read in. The circuit court imposed a sentence of three years’ initial confinement and four years’ extended supervision, consecutive to a sentence imposed after revocation.

There is no manifest injustice upon which Farias 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 Farias of the constitutional rights he waived by pleading no contest, the elements of the offense, the potential penalty, and the deportation consequences. The court specifically advised Farias that it was not bound by the parties’ agreement and could impose the maximum sentence. Farias conceded the criminal complaint provided an adequate factual basis for the conviction. The record shows the

pleas were knowingly, voluntarily and intelligently entered. *See State v. Bangert*, 131 Wis. 2d 246, 260, 389 N.W.2d 12 (1986). Entry of a valid no contest plea constitutes a waiver of nonjurisdictional defects and defenses. *Id.* at 265-66.

The record also discloses no basis to challenge the court's sentencing discretion. The court adopted the parties' joint sentencing recommendation, and Farias therefore may not attack the sentence on appeal. *See State v. Scherreiks*, 153 Wis. 2d 510, 518, 451 N.W.2d 759 (Ct. App. 1989).

Our independent review of the record discloses no other potential issues for appeal. Therefore,

IT IS ORDERED that the judgment is summarily affirmed. WIS. STAT. RULE 809.21 (2013-14).

IT IS FURTHER ORDERED that attorney Leonard Kachinsky is relieved of further representing Farias in this matter.

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