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**DISTRICT III**

April 14, 2015

To:

Hon. John A. Des Jardins  
Circuit Court Judge  
Outagamie County Courthouse  
320 S. Walnut Street  
Appleton, WI 54911

Barb Bocik  
Clerk of Circuit Court  
Outagamie County Courthouse  
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You are hereby notified that the Court has entered the following opinion and order:

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2014AP1919-CRNM      State of Wisconsin v. Robyn L. Waters (L. C. #2013CM748)

Before Hoover, P.J.<sup>1</sup>

Counsel for Robyn Waters has filed a no-merit report concluding there is no basis to challenge Waters' conviction for disorderly conduct. Waters was advised of her 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.

Waters was charged with disorderly conduct following a domestic disturbance. According to the criminal complaint, Waters began yelling at her ex-husband, and went on to punch him and scratch his neck during an exchange of placement of their child. Waters agreed to plead no contest in exchange for dismissing the domestic abuse enhancer and recommending twelve months' probation and conditions including counseling. The circuit court imposed a sentence consistent with the recommendation of twelve months' probation.

There is no manifest injustice upon which Waters could withdraw her plea. *See State v. Duychak*, 133 Wis. 2d 307, 312, 395 N.W.2d 795 (Ct. App. 1986). The court's colloquy, buttressed by the plea questionnaire and waiver of rights form, informed Waters of the constitutional rights she waived by pleading, the elements of the offense, the potential penalty, and possible deportation consequences. The court specifically advised Waters that it was not bound by the plea agreement and could impose the maximum sentence. The court properly found the probable cause portion of the criminal complaint provided an adequate factual basis supporting the conviction. The record shows the plea was knowingly, intelligently and voluntarily entered. *See State v. Bangert*, 131 Wis. 2d 246, 260, 389 N.W.2d 12 (1986). Entry of a valid no contest or guilty plea constitutes a waiver of any nonjurisdictional defects and defenses. *Id.* at 265-66.

The record also discloses no basis to challenge the court's sentencing discretion. The court considered proper sentencing factors, including Waters' character, the seriousness of the offense and the need to protect the public. *See State v. Harris*, 119 Wis. 2d 612, 623, 350

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<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2). All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

N.W.2d 633 (1984). The court characterized the matter as a “minor domestic kind of case[],” but noted there was physical contact. The court concluded, “I really think that probation would be appropriate here. You know, it’s consistent with a lot of minor domestic kind of cases that ultimately end up with probation and Domestic Violence [Intervention] and follow through.” The court withheld sentence and placed Waters on probation for one year as a condition. The sentence was allowable at law and not harsh or excessive. See *Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975).

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

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

IT IS FURTHER ORDERED that attorney William Donarski is relieved of further representing Waters in this matter.

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