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**DISTRICT III**

April 21, 2015

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

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2014AP820-CRNM      State of Wisconsin v. Patrick D. Arrowood (L. C. #2011CF118)

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

Counsel for Patrick Arrowood has filed a no-merit report concluding there is no basis to challenge Arrowood's convictions for burglary while armed with a dangerous weapon and burglary—committing battery on a person. Arrowood 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.

An Information charged Arrowood with armed burglary; committing a battery while in the burglarized enclosure; obstructing an officer; and criminal damage to property. The charges stemmed from a home invasion while Arrowood was armed with a knife. When police arrived, they observed Arrowood involved in a physical altercation with the victim. Arrowood was wearing black gloves and holding a flashlight. Arrowood threw the flashlight down and turned his back to the officers. He refused to comply with orders to show his hands. He also resisted directions to put his hands behind his back. After Arrowood was handcuffed, the victim informed police that Arrowood was his neighbor. The victim had heard a noise in the house, and when he went upstairs to investigate, he observed a figure, was immediately struck in the face, and fell down the stairs. The victim and Arrowood then started fighting. The victim stated he did not know the intruder was his neighbor until they started fighting.<sup>1</sup>

Arrowood pled guilty to burglary while armed with a dangerous weapon and burglary—committing battery on a person. The obstructing charge was dismissed outright, and the criminal damage to property charge was dismissed and read in. The circuit court imposed a sentence consisting of eight years' initial confinement and five years' extended supervision on the burglary charge, consecutive to a sentence Arrowood was currently serving on a homicide case; and eight years' initial confinement and five years' extended supervision on the battery charge, concurrent to the burglary charge. The court also ordered restitution for damage incurred during the burglary.

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<sup>1</sup> In a separate criminal case, Arrowood was charged with felon in possession of a firearm, after police found a backpack in his garage containing duct tape, a club with a handle, a loaded pistol, plastic zip ties, and a can of Heet antifreeze. Arrowood later told police that he used this kit to commit burglaries.

There is no manifest injustice upon which Arrowood could withdraw his pleas. *See State v. Duychak*, 133 Wis. 2d 307, 312, 395 N.W.2d 795 (Ct. App. 1986). The court's extensive colloquy informed Arrowood of the constitutional rights he waived by pleading guilty, the elements of the offenses, and the potential penalties.<sup>2</sup> The court did not specifically advise Arrowood of the potential deportation consequences of his plea, but that provides no grounds for relief. The record demonstrates that Arrowood cannot show his pleas are likely to result in deportation, as he was born in Wisconsin. *See* WIS. STAT. § 971.08(2);<sup>3</sup> *State v. Douangmala*, 2002 WI 62, ¶4, 253 Wis. 2d 173, 646 N.W.2d 1. The court specifically advised Arrowood that it was not bound by the sentencing recommendations. Arrowood conceded an adequate factual basis supported the convictions. 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 guilty 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 considered the proper sentencing factors, including Arrowood's character, the seriousness of the offenses and the need to protect the public. *See State v. Harris*, 119 Wis. 2d 612, 623, 350 N.W.2d 633 (1984). Arrowood's extensive criminal history and the unusual and serious nature of the crimes were the focus of the sentencing hearing. The sentence imposed was allowable at

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<sup>2</sup> The record reveals that the circuit court referenced a plea questionnaire and waiver of rights form at the plea colloquy, and Arrowood admitted that he signed the form, reviewed it carefully and understood it. However, the record on appeal does not appear to contain the plea questionnaire form.

<sup>3</sup> References to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

law and not unduly harsh or excessive. *See Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975).

The no-merit report also addresses whether the court erroneously exercised its discretion by ordering restitution in this case. At the sentencing hearing, the circuit court inquired of the parties concerning the correct amount of the restitution, and Arrowood failed to object to the amount stated by the prosecutor. Moreover, the presentence investigation report stated under the heading “Restitution Information,” that the homeowner “reported she received an estimate for the door and the frame work, wall and flooring damaged in the offense.” The amount awarded by the court was the same amount the PSI indicated as the cost of repair. Defense counsel, without contradiction by Arrowood, represented to the court at the sentencing hearing that he “had a chance to go over everything [in the PSI] with my client, and there are no changes.” There are no issues of arguable merit concerning the restitution ordered.

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

IT IS ORDERED that the judgments are summarily affirmed. *See WIS. STAT. RULE 809.21.*

IT IS FURTHER ORDERED that attorney Ralph Sczygelski is relieved of further representing Arrowood in this matter.

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