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**DISTRICT III**

April 21, 2015

To:

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Circuit Court Judge  
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Kevin J. Hussey  
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You are hereby notified that the Court has entered the following opinion and order:

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2014AP387-CRNM      State of Wisconsin v. Kevin J. Hussey (L. C. #2012CF922)

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

Counsel for Kevin Hussey has filed a no-merit report concluding there is no basis to challenge Hussey's convictions for misdemeanor criminal damage to property and misdemeanor theft, both as party to a crime, and disorderly conduct. Hussey was advised of his right to respond and has not responded. Upon our independent review of the record as mandated by

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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.

*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.

This matter stems from the theft of fiber optic cable belonging to Time Warner Cable. An Information charged Hussey with felony criminal damage to property and misdemeanor theft, both as party to a crime, and disorderly conduct. Hussey entered no contest pleas to misdemeanor criminal damage to property and misdemeanor theft, both as party to a crime, and to disorderly conduct. The circuit court imposed jail sentences consisting of sixth months for the criminal damage count, six months for the theft charge, and thirty days for disorderly conduct, concurrently.

There is no manifest injustice upon which Hussey could withdraw his pleas. *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 with attached jury instructions, informed Hussey of the constitutional rights he waived by pleading, the elements of the offenses and the potential penalties. The court specifically advised Hussey that it was not bound by the parties' agreement and could impose the maximum sentence. The criminal complaint provided an adequate factual basis supporting the convictions. The circuit court failed to advise Hussey of potential deportation consequences as required by WIS. STAT. § 971.08, but that provides no grounds for relief as the record demonstrates Hussey was born in Michigan. The record shows the pleas were knowingly, intelligently and voluntarily entered. *See State v. Bangert*, 131 Wis. 2d 246, 260, 389 N.W.2d 12 (1986). Entry of a valid guilty or 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 considered the proper sentencing factors, including Hussey'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). The concurrent jail sentences imposed were allowable at law and not unduly 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 judgments are summarily affirmed pursuant to WIS. STAT. RULE 809.21.

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

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