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DISTRICT III

April 28, 2015

To:

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

2014AP1489-CRNM State of Wisconsin v. Ted G. Kniess (L. C. No. 2013CF954)

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

Counsel for Ted Kniess has filed a no-merit report concluding there is no arguable basis for Kniess to withdraw his no contest pleas or challenge the sentences imposed for three counts of selling cocaine. Kniess was advised of his right to respond to the report 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 basis for appeal.

The complaint charged Kniess with seven drug-related crimes. The complaint alleged that Kniess sold cocaine to an informant on four separate occasions from an apartment he maintained as a drug trafficking place, and that cocaine and drug paraphernalia were found when the police executed a search warrant of his apartment. Pursuant to a plea agreement, Kniess pled no contest to two counts of delivering less than one gram of cocaine and one count of delivering between one and five grams of cocaine. The other charges were dismissed and read-in for sentencing purposes. The court imposed concurrent sentences of four years' initial confinement and four years' extended supervision.

The record discloses no arguable manifest injustice upon which Kniess could withdraw his no contest pleas. See *State v. Duychak*, 133 Wis. 2d 307, 312, 395 N.W.2d 795 (Ct. App. 1986). The court's colloquy, supplemented by a Plea Questionnaire and Waiver of Rights form, informed Kniess of the elements of the offenses, the potential penalties and the constitutional rights he waived by pleading no contest. As required by *State v. Hampton*, 2004 WI 117, ¶20, 274 Wis. 2d 379, 683 N.W.2d 14, the court advised Kniess it was not bound by any plea negotiations. The court did not give the deportation warning required by WIS. STAT. § 971.08(1)(c),¹ but that omission provides no grounds for relief because Kniess stated he was a citizen of the United States. The record shows the pleas were knowingly, voluntarily and intelligently entered. See *State v. Bangert*, 131 Wis. 2d 246, 257, 389 N.W.2d 12 (1986). Entry of valid no contest pleas constitutes a waiver of nonjurisdictional defects and defenses. *Id.* at 293.

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

The record also discloses no arguable basis for challenging the sentences. The court could have imposed consecutive sentences totaling twenty-two and one-half years' imprisonment and fines totaling \$75,000. The court appropriately considered the seriousness of the offenses, Kniess's character and prior record, and the need to protect the public. See *State v. Harris*, 119 Wis. 2d 612, 623-24, 350 N.W.2d 633 (1984). The court considered no improper factors and the concurrent eight-year sentences are not arguably so excessive as to shock public sentiment. See *Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975).

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

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

IT IS FURTHER ORDERED that attorney Erica Bauer is relieved of her obligation to further represent Kniess in this matter. WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals