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DISTRICT III

June 2, 2015

To:

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

2015AP204-CRNM State of Wisconsin v. Justin M. Wilber (L. C. No. 2008CF833)

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

Counsel for Justin Wilber filed a no-merit report concluding there is no arguable basis for Wilber to challenge the sentences imposed following revocation of his probation. Wilber 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.

In 2010, Wilber entered guilty pleas to four counts of misdemeanor theft and one count of burglary. His jail sentences and probationary periods for the misdemeanor thefts were served. However, he violated the terms of the probation imposed on the burglary count by drinking, using drugs and absconding from probation. The court sentenced Wilber to three years and three months' initial confinement and three years and nine months' extended supervision, with 354 days of jail credit.

This appeal entails neither the underlying conviction nor the probation revocation. The issues are limited to the sentence imposed after revocation. See *State v. Drake*, 184 Wis. 2d 396, 399, 550 N.W.2d 923 (Ct. App. 1994). The record discloses no arguable basis for challenging the sentence. Wilber faced a maximum penalty of twelve and one-half years' imprisonment. The court appropriately considered the seriousness of the offense, Wilber's character including his failures on probation, and the need to protect the public. See *State v. Harris*, 119 Wis. 2d 612, 623, 350 N.W.2d 633 (1984). The court noted Wilber was convicted of three felonies by the age of twenty-three, failed to follow through with treatment plans and blamed others for his situation. The court considered no improper factors, and the sentence is 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 (2013-14).

IT IS FURTHER ORDERED that attorney Andrew Hinkel is relieved of his obligation to further represent Wilber in this matter. WIS. STAT. RULE 809.32(3) (2013-14).

Diane M. Fremgen
Clerk of Court of Appeals