



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT III/IV

July 14, 2015

To:

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

Barb Bocik
Clerk of Circuit Court
Outagamie County Courthouse
320 S. Walnut St.
Appleton, WI 54911

Jason R. Farris
Bauer & Farris, LLC
103 W. College Ave., Ste. 410
Appleton, WI 54911-5782

Carrie A. Schneider
District Attorney
320 S. Walnut St.
Appleton, WI 54911

Gregory M. Weber
Assistant Attorney General
P.O. Box 7857
Madison, WI 53707-7857

Dennis West Jr. 338466
Redgranite Corr. Inst.
P.O. Box 925
Redgranite, WI 54970-0925

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

2014AP1948-CRNM State of Wisconsin v. Dennis West, Jr. (L.C. # 2013CF666)

Before Blanchard, P.J., Lundsten and Kloppenburg, JJ.

Dennis West appeals a judgment convicting him, after entry of a no contest plea, of felony bail jumping. *See* WIS. STAT. § 946.49(1)(b) (2013-14).¹ Attorney Jason Farris has filed a no-merit report seeking to withdraw as appellate counsel. WIS. STAT. RULE 809.32; *see also Anders v. California*, 386 U.S. 738, 744 (1967); *State ex rel. McCoy v. Wisconsin Court of Appeals*, 137 Wis. 2d 90, 403 N.W.2d 449 (1987), *aff'd*, 486 U.S. 429 (1988). The no-merit

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

report addresses the validity of the plea and sentence. West was sent a copy of the report, but has not filed a response. Upon reviewing the entire record, as well as the no-merit report, we conclude that there are no arguably meritorious appellate issues.

First, we see no arguable basis for plea withdrawal. In order to withdraw a plea after sentencing, a defendant must either show that the plea colloquy was defective in a manner that resulted in the defendant actually entering an unknowing plea, or demonstrate some other manifest injustice such as coercion, the lack of a factual basis to support the charge, ineffective assistance of counsel, or failure by the prosecutor to fulfill the plea agreement. *State v. Bangert*, 131 Wis. 2d 246, 389 N.W.2d 12 (1986); *State v. Krieger*, 163 Wis. 2d 241, 249-51 and n.6, 471 N.W.2d 599 (Ct. App. 1991). There is no indication of any such defect here.

West entered his plea pursuant to a negotiated plea agreement that was presented in open court. In exchange for West's plea, the State agreed to dismiss and read in other counts. The circuit court conducted a standard plea colloquy, inquiring into West's ability to understand the proceedings and the voluntariness of his plea decisions, as well as his understanding of the nature of the charges, the penalty ranges and other direct consequences of the pleas, and the constitutional rights being waived. *See* WIS. STAT. § 971.08; *State v. Hoppe*, 2009 WI 41, ¶18, 317 Wis. 2d 161, 765 N.W.2d 794; *Bangert*, 131 Wis. 2d at 266-72. The court made sure West understood that it would not be bound by any sentencing recommendations. West also provided the court with a signed plea questionnaire. He indicated to the court that he understood the information explained on that form, and is not now claiming otherwise. *See State v. Moederndorfer*, 141 Wis. 2d 823, 827-28, 416 N.W.2d 627 (Ct. App. 1987).

Although the court did not specifically advise West of the deportation consequences of his plea, as mandated by WIS. STAT. § 971.08(1)(c), counsel informs us in the no-merit report that West is a citizen of the United States, and the record reflects that West was born in Illinois. Additionally, the court found that the complaint provided a factual basis for the plea. There is nothing in the record to suggest that counsel's performance was in any way deficient, and West has not alleged any other facts that would give rise to a manifest injustice. Therefore, his plea was valid and operated to waive all nonjurisdictional defects and defenses, aside from any suppression ruling. See *State v. Kelty*, 2006 WI 101, ¶18, 294 Wis. 2d 62, 716 N.W.2d 886.

The record also discloses no arguable basis for challenging the sentence imposed. The court considered the risk West posed to the public, his criminal history, his substance abuse issues and failed attempts at treatment, and the severity of the offense. The court sentenced West to eighteen months of initial confinement and two years of extended supervision. The sentence is within the applicable penalty range. See WIS. STAT. §§ 946.49(1)(b) (classifying felony bail jumping as a Class H felony), and 973.01(2)(b)8. and (d)5. (providing maximum terms of three years of initial confinement and three years of extended supervision for a Class H felony). Under these circumstances, it cannot reasonably be argued that West's sentence is so excessive as to shock public sentiment. See *Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975).

Upon our independent review of the record, we have found no other arguable basis for reversing the judgment of conviction. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

Accordingly,

IT IS ORDERED that the judgment of conviction is summarily affirmed under WIS. STAT. RULE 809.21(1).

IT IS FURTHER ORDERED that Jason Farris is relieved of any further representation of Dennis West in this matter pursuant to WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals