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**DISTRICT I**

September 10, 2015

To:

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

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2015AP1254-CRNM      State of Wisconsin v. Jeffrey A. Lester (L.C. #2013CF4041)

Before Kessler, Brennan and Bradley, JJ.

Jeffrey A. Lester appeals from a judgment of conviction, entered upon his guilty plea, on one count of robbery of a financial institution as a repeater. Appellate counsel, John J. Grau, has filed a no-merit report, pursuant to *Anders v. California*, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32 (2013-14).<sup>1</sup> Lester was advised of his right to file a response, but has not responded. Upon this court's independent review of the record, as mandated by *Anders*, and

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

counsel's report, we conclude there is no issue of arguable merit that could be pursued on appeal. We therefore summarily affirm the judgment.

On August 20, 2013, West Allis police were dispatched to a Tri-City National Bank, located inside a grocery store, to respond to a robbery around 2:36 p.m. Teller Y.O. reported that the suspect had come in with his left hand in his pocket and said, "I have a gun. Put all the money on the counter and no dye packs." Y.O. activated an alarm and began emptying her drawer. Part of the money the suspect took was bait money, \$200 in ten-dollar bills whose serial numbers had been pre-recorded. At approximately 2:45 p.m., Lester was located in a nearby backyard by a K-9 unit. All \$2,991 taken, including the bait money, was recovered. Lester gave a statement admitting he had gone to rob the bank because he had been using heroin and spent all his money on drugs. Lester was previously convicted for robbing the same bank in 2006 and for robbing a credit union in 2008.

Lester agreed to resolve his case with a plea. In exchange for his guilty plea, the State would argue for a sentence of thirteen years' initial confinement and seven years' extended supervision. Lester would be free to recommend any sentence length. The circuit court accepted the plea and sentenced Lester to the sentence recommended by the State.

The first potential issue counsel identifies is whether the circuit court followed the appropriate procedures in accepting Lester's plea. Our review of the record—including the plea questionnaire and plea hearing transcript—confirms that the circuit court complied with its obligations for taking a guilty plea, pursuant to WIS. STAT. § 971.08, *State v. Bangert*, 131 Wis. 2d 246, 261-62, 389 N.W.2d 12 (1986), and subsequent cases, as collected in *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906. There is no arguable merit to a

claim that the circuit court failed to fulfill its obligations or that Lester's plea was anything other than knowing, intelligent, and voluntary.

The second issue counsel addresses is whether the circuit court erroneously exercised its sentencing discretion. *See State v. Gallion*, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197. At sentencing, a court must consider the principal objectives of sentencing, including the protection of the community, the punishment and rehabilitation of the defendant, and deterrence to others, *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76, and determine which objective or objectives are of greatest importance, *see Gallion*, 270 Wis. 2d 535, ¶41. In seeking to fulfill the sentencing objectives, the court should consider a variety of factors, including the gravity of the offense, the character of the offender, and the protection of the public, and may consider several subfactors. *See State v. Odom*, 2006 WI App 145, ¶7, 294 Wis. 2d 844, 720 N.W.2d 695. The weight to be given to each factor is committed to the circuit court's discretion. *See id.*

Our review of the record confirms that the circuit court appropriately considered relevant sentencing objectives and factors. In particular, the circuit court made note of the repetitive nature of Lester's current offense, his drug issues, and, as mitigating factors, his acceptance of responsibility and apparently sincere remorse. The twenty-year sentence imposed is well within the forty-six-year range authorized by law, *see State v. Scaccio*, 2000 WI App 265, ¶18, 240 Wis. 2d 95, 622 N.W.2d 449, and is not so excessive so as to shock the public's sentiment. *See Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). The circuit court explained why this sentence would be consecutive, and additionally granted Lester eligibility for participation in the substance abuse program so he could address his addiction issues. There would be no arguable merit to a challenge to the court's sentencing discretion.

Our independent review of the record reveals no other potential issues of arguable merit.

Upon the foregoing, therefore,

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

IT IS FURTHER ORDERED that Attorney John J. Grau is relieved of further representation of Lester in this matter. *See* WIS. STAT. RULE 809.32(3).

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