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**DISTRICT III**

January 5, 2016

To:

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

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2015AP1432-NM      Eric A. Pavlicek v. Christy A. Hart (L. C. No. 1997FA104)

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

Counsel for Eric Pavlicek has filed a no-merit report concluding there is no arguable basis for challenging an order finding Pavlicek in contempt and sentencing him to time served. Pavlicek was advised of his right to respond to the report and has not responded. Upon this court's independent review of the record, we conclude there is no arguable basis for appeal.

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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.

In 2011, an order to show cause was issued based on Pavlicek's failure to make child support payments. After he failed to appear at a court hearing, the court issued a warrant for his arrest and ordered him held on \$2,000 bond. Almost three years later he was arrested and held in jail for 159 days awaiting the contempt hearing. At the hearing, the State acknowledged that Pavlicek may have had a medical issue preventing him from working. After the court indicated it would require medical evidence regarding Pavlicek's alleged disability, the parties reached an agreement that the State would recommend time served in return for Pavlicek's stipulation that he was in contempt of court. The court accepted the stipulation and sentenced Pavlicek to 159 days in jail, resulting in his immediate release.

According to the no-merit report, Pavlicek contends his stipulation to a contempt finding was not knowingly, voluntarily and intelligently entered because he only agreed to it to get out of jail. However, the record shows the stipulation was knowingly, voluntarily and intelligently entered. Pavlicek knew the basis for the contempt allegation, that inability to work due to disability would have constituted a defense, and the maximum penalty the court could have imposed, 180 days in jail. Knowing he would spend more time in jail awaiting medical evidence to support his defense, and after consulting with his attorney, he decided to forego the defense and take advantage of the State's offer regarding the penalty. A plea is not impermissibly coerced by the offer of a plea agreement that exchanges the right to present a defense for sentencing considerations.

The record also discloses no arguable basis for challenging the sentence. A person may not challenge a sentence that he requested the court to impose. *State v. Sherreiks*, 153 Wis. 2d 510, 518, 451 N.W.2d 759 (Ct. App. 1989).

This court's independent review of the record discloses no other potential issue for appeal. Therefore,

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

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

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