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June 1, 2016

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

2015AP2537-CRNM State of Wisconsin v. Aaron L. Traxler (L. C. No. 2015CM48)

Before Hruz, J.[1]

Counsel for Aaron Traxler filed a no-merit report concluding there is no arguable basis for Traxler to withdraw his no-contest pleas or challenge the sentences imposed for two counts of sexual intercourse with a child between the ages of sixteen and eighteen, both as a repeat offender. Traxler filed a response requesting a sentence reduction because he loved the victim

[1] 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.

and meant her no harm. Upon this court's independent review of the record as mandated by ***Anders v. California***, 386 U.S. 738 (1967), no issue of arguable merit appears.

The complaint charged Traxler with two counts of misdemeanor bail jumping as a repeater in addition to the sexual intercourse charges. The complaint alleged the victim told the police she engaged in intercourse with Traxler at her residence on two occasions, and Traxler knew she was sixteen years old. Pursuant to a plea agreement, the State agreed to dismiss and read in one of the bail-jumping counts and to dismiss the second bail-jumping count outright. The State also agreed to dismiss a criminal damage to property charge in an unrelated case. The circuit court accepted Traxler's no-contest pleas and imposed consecutive prison terms totaling two years' initial confinement and one-year extended supervision, consecutive to a sentence Traxler was already serving.

The record discloses no arguable manifest injustice upon which Traxler could withdraw his no contest pleas. *See* ***State v. Duychak***, 133 Wis. 2d 307, 312, 395 N.W.2d 795 (Ct. App. 1986). The circuit court's colloquy, supplemented by a Plea Questionnaire and Waiver of Rights form, with the elements of the offense attached, informed Traxler of the elements, the potential penalties, and the constitutional rights he waived by pleading no contest. The court explained the maximum penalties Traxler faced, including the impact of the repeater enhancements, and Traxler stated he understood he could be sentenced to "anything up to the maximum penalties." Traxler stated he understood his rights to a jury trial and a unanimous verdict, the right to confront witnesses and present evidence, and the right to remain silent. He also stated he understood the elements of the offense and agreed there was an adequate factual basis for the pleas. Traxler also agreed the conviction listed in the complaint formed a basis for the repeater allegations. The record shows the no-contest 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 all nonjurisdicitonal defects and defenses. ***Id.*** at 293.

The record also discloses no arguable basis for challenging the sentences. The circuit court could have imposed consecutive sentences of two years on each count because Traxler was convicted as a repeater. *See* WIS. STAT. § 939.62(1)(a). The court appropriately considered the seriousness of the offenses, Traxler's character, and the need to protect the public. *See* ***State v. Harris***, 119 Wis. 2d 612, 623, 350 N.W.2d 633 (1984). These offenses occurred while Traxler was on supervision for felony second-degree sexual assault of a child. The court considered no improper factors and the eighteen-month consecutive 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).

There is no basis for this court to order a reduction in Traxler's sentences. Sentencing is committed to the sentencing court's discretion. ***State v. Macemon***, 113 Wis. 2d 662, 667-68, 335 N.W.2d 402 (1983). Because the sentences the court imposed do not exceed the maximum allowed by law and the circuit court gave its reasons on the record and appropriately considered the primary factors identified in ***Harris***, this court may not second-guess the sentencing court's decision. *See* ***Harris***, 119 Wis. 2d at 623.

This court's 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 Jennifer Lohr is relieved of her obligation to further represent Traxler in this matter. WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals