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DISTRICT III

November 1, 2016

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

2015AP2091-CRNM State v. James J.M. Albrecht (L. C. No. 2014CF304)

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

Counsel for James Albrecht has filed a no-merit report concluding there is no basis to challenge Albrecht's convictions for taking hostages, theft of movable property, and felon in possession of a firearm, all as repeaters. Albrecht was advised of his right to respond and has failed to respond. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude there is no arguable issue of merit that could be raised on appeal and summarily affirm.

Albrecht was charged with five counts of taking hostages—release without bodily harm; attempting to flee or elude an officer; possession of a firearm by a felon; theft of movable property—special facts; and possession of methamphetamine; all as repeaters. The charges stemmed from a methamphetamine-induced spree which began with the theft of a 9mm handgun from a residence; a “drive-away” from a convenience store without paying for gas; fleeing police while brandishing the handgun; and eventually illegally entering an apartment occupied by a woman, her three children, and her mother. Albrecht held the five occupants hostage, although the woman was able to communicate with police outside that Albrecht had a gun and that there were three children inside. Albrecht eventually let the woman go with instructions to tell police he was not inside the apartment. After police contacted Albrecht and lengthy negotiations ensued, during which time Albrecht demanded cigarettes in exchange for the release of the three children, Albrecht was taken into custody. A gun was found in the apartment matching the 9mm stolen earlier. A subsequent search of Albrecht’s vehicle revealed weapons and methamphetamine.

Albrecht agreed to plead guilty to one count of taking a hostage; one count of possession of a firearm by a felon; and one count of theft of a firearm, all as repeaters. In exchange, the State agreed to recommend the dismissal and read-in of all other charges. The circuit court imposed consecutive sentences consisting of twenty years’ initial confinement and fifteen years’ extended supervision on the hostage count; nine years’ initial confinement and five years’ extended supervision on the possession of a firearm count; and three years’ initial confinement and three years’ extended supervision on the theft count.

There is no manifest injustice upon which Albrecht may withdraw his guilty pleas. *See State v. Duychak*, 133 Wis. 2d 307, 312, 395 N.W.2d 795 (Ct. App. 1986). The circuit court’s

exemplary plea colloquy, buttressed by the plea questionnaire and waiver of rights form with attachments which Albrecht signed, informed Albrecht of the constitutional rights he waived by pleading guilty, the elements of the offenses, and the potential punishment. The court specifically advised Albrecht it was not bound by the parties' agreement and could impose the maximum penalties. The court also advised Albrecht of the potential deportation consequences of his pleas. Albrecht conceded a factual basis supported the convictions. The court also confirmed medications Albrecht was taking did not interfere with his ability to understand the proceedings. The record demonstrates the pleas were entered knowingly, intelligently, and voluntarily. *See State v. Bangert*, 131 Wis. 2d 246, 260, 389 N.W.2d 12 (1986). Entry of a valid guilty plea constitutes a waiver of nonjurisdictional defenses and defects. *Id.* at 265-66.

The record also discloses no basis for challenging the circuit court's sentencing discretion. The court considered the proper factors, including Albrecht's character, the seriousness of the offenses, 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 Albrecht's criminal record, which was significant in its scope. The court also noted Albrecht's five probation revocations, and his utter failure to rehabilitate. The court indicated a need to impose a long prison sentence to protect the public, and the court's sentence was neither overly harsh nor excessive. *See Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975).

Our independent review of the record discloses no other issues of arguable merit. Therefore,

IT IS ORDERED that the judgment is summarily affirmed. WIS. STAT. RULE 809.21 (2013-14).

IT IS FURTHER ORDERED that attorney Daniel Ryan is relieved of further representing Albrecht in this matter.

Diane M. Fremgen
Clerk of Court of Appeals