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DISTRICT III

October 11, 2017

To:

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

2016AP2479-CRNM State v. Quiiave N. Hodges (L. C. No. 2015CF1279)

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

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Counsel for Quiiave Hodges has filed a no-merit report concluding no grounds exist to challenge Hodges' conviction for arson of a building without the owner's consent, contrary to WIS. STAT. § 943.02(1)(a) (2015-16).¹ Hodges was informed of his right to file a response to the

¹ All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

no-merit report and has not responded. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude there is no arguable merit to any issue that could be raised on appeal. Therefore, we summarily affirm the judgment of conviction. *See* WIS. STAT. RULE 809.21.

The State charged Hodges with arson of a building and felon in possession of a firearm, both counts as a repeater. The Complaint alleged that Hodges, frustrated by his perceived inability to retrieve personal belongings following a break-up with B.A., threatened to burn down B.A.'s house. Hodges sent a photo of gas spilled on a hallway floor, with a gas can in the middle of a puddle. Hodges was seen leaving the burning house by a cab driver. The Complaint further alleged that Hodges stole a handgun from a vehicle in Eau Claire. In exchange for Hodges' no contest plea to the arson charge without the repeater allegation, the State agreed to dismiss and read in the remaining charge and cap its sentence recommendation at four years' initial confinement and six years' extended supervision. Out of a maximum forty-year sentence, the circuit court imposed twenty-five years, consisting of ten years' initial confinement followed by fifteen years' extended supervision.

The record discloses no arguable basis for withdrawing Hodges' no contest plea. The circuit court's plea colloquy, as supplemented by a plea questionnaire and waiver of rights form that Hodges completed, informed Hodges of the elements of the offense, the penalties that could be imposed, and the constitutional rights he waived by entering a no contest plea. The circuit court confirmed that Hodges understood the court was not bound by the terms of the plea agreement, *see State v. Hampton*, 2004 WI 107, ¶2, 274 Wis. 2d 379, 683 N.W.2d 14, and advised Hodges of the deportation consequences of his plea, as mandated by WIS. STAT. § 971.08(1)(c). The circuit court confirmed that medications and treatment Hodges was

receiving for epilepsy and mental illness did not interfere with his ability to understand the proceedings. Additionally, the circuit court properly found that a sufficient factual basis existed in the record to support the conclusion that Hodges committed the crime charged. The record shows the plea was knowingly, voluntarily and intelligently made. *See State v. Bangert*, 131 Wis. 2d 246, 257, 389 N.W.2d 12 (1986).

The record discloses no arguable basis for challenging the sentence imposed. Before imposing a sentence authorized by law, the circuit court considered the seriousness of the offense; Hodges' character, including his lengthy criminal history; the need to protect the public; and the mitigating factors Hodges raised. *See State v. Gallion*, 2004 WI 42, ¶¶39-46, 270 Wis. 2d 535, 678 N.W.2d 197. The court placed particular emphasis on the severity of the crime and the need to protect the public, noting that "fire gets out of control and can lead to other fires," thus endangering responders and other citizens. The court added: "I'm not going to have fire departments and law enforcement responding to the scene of an intentionally set fire related to a domestic incident." There is a presumption that Hodges' sentence, which is well within the maximum allowed by law, is not unduly harsh or unconscionable, nor "so excessive and unusual" as to shock public sentiment. *See State v. Grindemann*, 2002 WI App 106, ¶¶31-32, 255 Wis. 2d 632, 648 N.W.2d 507; *see also Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). Further, there is no arguable merit to any claim that the conditions of extended supervision were not "reasonable and appropriate" under the circumstances of this case. *See State v. Koenig*, 2003 WI App 12, ¶7, 259 Wis. 2d 833, 656 N.W.2d 499.

Our independent review of the record discloses no other potential issue for appeal. Therefore,

IT IS ORDERED that the judgment is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that attorney Jeremy A. Newman is relieved of further representing Hodges in this matter. *See* WIS. STAT. RULE 809.32(3).

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Diane M. Fremgen
Clerk of Court of Appeals