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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:

2016AP2252-CRNM State of Wisconsin v. Chris A. Hoffman (L. C. No. 2014CF262)

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 Chris Hoffman has filed a no-merit report concluding there is no arguable basis for Hoffman to withdraw his guilty plea or challenge the sentence imposed for sixth-offense operating a vehicle while intoxicated. Hoffman was advised of his right to respond to

the 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 basis for appeal.

Hoffman's vehicle was stopped because he was traveling westbound in the eastbound lanes of a highway. Hoffman admitted to the deputy that he was texting while driving. After failing a field sobriety test, Hoffman consented to a blood draw that showed a blood alcohol content of 0.17 percent.

Pursuant to a plea agreement, Hoffman entered a guilty plea and the State dismissed two traffic offenses. The court imposed a sentence of two years' initial confinement and two years' extended supervision, and a \$1150 fine.

The record discloses no arguable manifest injustice upon which Hoffman could withdraw his guilty plea. See *State v. Duychak*, 133 Wis. 2d 307, 312, 395 N.W.2d 795 (Ct. App. 1986). The court's colloquy, supplemented by a Plea Questionnaire and Waiver of Rights form, informed Hoffman of the constitutional rights he waived by pleading guilty, the elements of the offense, and the potential penalties. As required by *State v. Hampton*, 2004 WI 107, ¶2, 274 Wis. 2d 379, 683 N.W.2d 14, the court informed Hoffman it was not bound by the parties' sentence recommendations. The court did not give the deportation warning required by WIS. STAT. § 971.08(1)(c) (2015-16).¹ However, that error was harmless because Hoffman is a United States citizen and therefore not subject to deportation. Hoffman told the court his plea was not the product of any threats or promises and he had not consumed any medicine, drugs or alcohol within the previous twenty-four hours. The record shows Hoffman's plea was knowingly,

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

voluntarily and intelligently entered. *See State v. Bangert*, 131 Wis. 2d 246, 257, 389 N.W.2d 12 (1986). Entry of a valid guilty plea constitutes a waiver of all nonjurisdictional defects and defenses. *Id.* at 293.

The record also discloses no arguable basis for challenging the sentencing court's discretion. The maximum penalty for this offense is three years' initial confinement and three years' extended supervision, as well as a fine of \$10,000. The minimum sentence is six months' imprisonment and a \$600 fine. The court appropriately considered the seriousness of the offense, Hoffman's character including numerous prior convictions, and the need to protect the public. *See State v. Harris*, 119 Wis. 2d 612, 623, 350 N.W.2d 633 (1984). The sentence imposed is not arguably so excessive as to shock public sentiment. *See Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975).

Our 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 Steven Phillips is relieved of his obligation to further represent Hoffman 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