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DISTRICT III

November 7, 2017

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Seric E. Rehbein 204521
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You are hereby notified that the Court has entered the following opinion and order:

2017AP45-CRNM State of Wisconsin v. Seric E. Rehbein (L. C. No. 2015CF936)

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 Seric E. Rehbein has filed a no-merit report concluding there is no arguable basis for Rehbein to withdraw his guilty plea or to challenge the sentence imposed for second-degree sexual assault of a child. Rehbein 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 issue of merit for appeal.

The complaint charged Rehbein with two counts of first-degree sexual assault of a child, exposing genitals to a child, and intimidation of the victim. Pursuant to a plea agreement, Rehbein entered a guilty plea to one count of second-degree sexual assault of a child and agreed to lifetime supervision under WIS. STAT. § 939.615 (2015-16).[1] The remaining charges were dismissed and read in for sentencing purposes.

Before sentencing, Rehbein filed a motion to withdraw his guilty plea along with his counsel's motion to withdraw from representing Rehbein. The motion to withdraw the plea alleged Rehbein was pressured into entering a plea, there was no factual basis for the plea, and he was inadequately informed of possible defenses to the charges. The State Public Defender appointed a new attorney to represent Rehbein. After consulting with the new attorney, Rehbein withdrew his motion to withdraw the plea.

The circuit court ordered a presentence investigation. Rehbein told its author, "I will say I did this for the purpose of this report." Rehbein explained that he would admit to being guilty so he could get programming, and he did not want the victim to be retraumatized by having to go through a jury trial. He said he was not sure if he actually committed the offense, "he just doesn't remember." Rehbein claimed that, when he was in California, he was beaten by the police which caused extensive injury to his brain, causing "slight amnesia about certain parts of his life." The PSI recommended eleven to fourteen years' imprisonment. The circuit court sentenced Rehbein to ten years' initial confinement and ten years' extended supervision.

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

Our independent review of the record discloses no arguable manifest injustice upon which Rehbein could withdraw his guilty plea. *See* ***State v. Duychak***, 133 Wis. 2d 307, 312, 395 N.W.2d 795 (Ct. App. 1986). The plea colloquy, supplemented by a Plea Questionnaire and Waiver of Rights form, informed Rehbein of the elements of the offense, the potential penalties, and the constitutional rights he waived by pleading guilty. As required by ***State v. Hampton***, 2004 WI 107, ¶2, 274 Wis. 2d 379, 683 N.W.2d 14, the court informed Rehbein it was not bound by the parties' sentence recommendations. Rehbein acknowledged he had read the complaint, and he admitted there was a factual basis for the plea. The court did not provide the deportation warning required by WIS. STAT. § 971.08(2)(c). However, because the record establishes Rehbein is a natural-born United States citizen, he is not subject to deportation. Therefore, that omission was harmless. The record shows the guilty plea was knowingly, 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 non-jurisdictional defects and defenses. ***Id.*** at 293.

The record discloses no basis for challenging the sentencing court's discretion. The maximum sentence for this offense is forty years' imprisonment and a $100,000 fine. The circuit court appropriately considered the seriousness of the offense, Rehbein's character, and the need to protect the public. *See* ***State v. Harris***, 119 Wis. 2d 612, 623, 350 N.W.2d 633 (1984). The victim was ten years old, and the court found she had been "terrorized to some extent." Rehbein had a substantial prior record including sexual assault of a child.

Rehbein agreed to lifetime supervision, and that was an integral part of the plea agreement. Although the notice concerning lifetime supervision was not contained in the complaint or Information and the circuit court did not make a specific finding that lifetime supervision was necessary to protect the public, *see* WIS. STAT. §§ 973.125, 939.615(2)(b),

Rehbein is judicially estopped from challenging the order for lifetime supervision based on his explicit agreement. *See* ***State v. Scherreiks***, 153 Wis. 2d 510, 518, 451 N.W.2d 759 (Ct. App. 1989).

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

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

IT IS FURTHER ORDERED that attorney Jefren E. Olsen is relieved of his obligation to further represent Rehbein 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