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DISTRICT III

December 5, 2017

To:

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

2017AP745-CRNM State of Wisconsin v. Joel M. Bruflo dt (L. C. No. 2014CF302)

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 Joel Bruflo dt filed a no-merit report concluding there is no arguable basis for Bruflo dt to withdraw his no-contest pleas or to challenge the sentences imposed for burglary, possession of methamphetamine and attempted battery to a law enforcement officer. Bruflo dt 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.

Pursuant to a plea agreement, Brufloft entered no-contest pleas in return for the State's agreement to dismiss and read in for sentencing purposes charges of possession of a firearm by a felon, fleeing or eluding a traffic officer and two counts of felony bail jumping. According to the complaint, Brufloft and several accomplices broke into a home and stole various items. Police identified several of the participants and found some of the stolen items in their homes. These items implicated Brufloft. While an investigator was interviewing a suspect's girlfriend, Brufloft contacted her by telephone and agreed to meet with her. When officers located and stopped Brufloft's van, Brufloft backed up quickly, then drove toward one of the officers who avoided being hit by the vehicle. After an eighteen-mile chase at speeds up to 140 miles per hour, Brufloft fled the vehicle on foot and was later apprehended. Officers searching the van found a glass pipe with methamphetamine residue.

The record discloses no arguable manifest injustice upon which Brufloft 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 exemplary plea colloquy, supplemented by a Plea Questionnaire and Waiver of Rights form, detailed the constitutional rights Brufloft waived by pleading no contest, the elements of the offenses 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 reminded Brufloft that it was not bound by the parties' sentence recommendations. The court gave the deportation warning required by

WIS. STAT. § 971.08(1)(c) (2015-16).¹ Brufloft assured the court that his pleas were not the product of any threats or promises and that medication he took for depression and anxiety did not interfere with his ability to concentrate or understand the proceedings. Through his attorney, Brufloft admitted the facts contained in the complaint. The court followed the procedures for accepting no-contest pleas set out in *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906. Entry of valid no-contest pleas constitutes a waiver of nonjurisdictional defects and defenses. See *State v. Bangert*, 131 Wis. 2d 246, 293, 389 N.W.2d 12 (1986).

The record also discloses no arguable basis for Brufloft to challenge the sentencing court's discretion. The circuit court imposed consecutive sentences totaling eight years' initial confinement and eight and one-half years' extended supervision. The court could have imposed sentences totaling eighteen years' imprisonment and fines totaling \$40,000. The court appropriately considered the seriousness of the offenses, Brufloft's character, and the need to protect the public. See *State v. Harris*, 119 Wis. 2d 612, 623, 350 N.W.2d 633 (1984). In his interview with the author of the presentence investigation report, Brufloft minimized and excused his behavior and expressed no remorse. The court noted Brufloft's substantial criminal history and concluded Brufloft was not amenable to treatment and posed a danger to society. The court considered no improper factors, and the sentence 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,

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

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

IT IS FURTHER ORDERED that attorney Mark Schoenfeldt is relieved of his obligation to further represent Brufloft 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