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DISTRICT III

December 5, 2017

To:

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Ladarius C. Rash
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You are hereby notified that the Court has entered the following opinion and order:

2017AP772-CRNM State of Wisconsin v. Ladarius C. Rash (L. C. No. 2016CF79)

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 Ladarius Rash filed a no-merit report concluding there is no arguable basis for Rash to withdraw his no-contest plea or to challenge the sentence imposed for expelling a bodily substance on a prison guard. Rash 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.

Rash, a sixteen-year-old inmate at a juvenile institution, was charged with spitting on an officer. Pursuant to a plea agreement, Rash entered a no-contest plea in return for the State's agreement to jointly recommend probation. The circuit court accepted the no-contest plea and imposed the agreed-upon probation.

The record discloses no arguable manifest injustice upon which Rash could withdraw his no-contest plea. See *State v. Duychak*, 133 Wis. 2d 307, 312, 395 N.W.2d 795 (Ct. App. 1986). The circuit court's plea colloquy, supplemented by a Plea Questionnaire and Waiver of Rights form, informed Rash of the constitutional rights he waived by pleading no contest, 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 reminded Rash that it was not bound by the parties' sentence agreement. The court also gave the deportation warning required by WIS. STAT. § 971.08(1)(c) (2015-16).¹ Rash assured the court that his plea was not the product of any threats or promises, that medication he took helped his thought process, and that he was mentally alert. The criminal complaint and testimony at the preliminary hearing provided the factual basis for the plea. The record shows the 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 no-contest plea constitutes a waiver of nonjurisdictional defects and defenses. *Id.* at 293.

The court imposed the jointly-recommended term of eighteen months' probation. A jointly-recommended sentence cannot be challenged on appeal. *State v. Sherreiks*, 153 Wis. 2d 510, 518, 451 N.W.2d 759 (Ct. App. 1989).

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

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 Mark Schoenfeldt is relieved of his obligation to further represent Rash in this matter. 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