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December 12, 2017

To:

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

2016AP837-CRNM State of Wisconsin v. Dominick Anton Nash
(L. C. No. 2014CF1835)

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 Dominick Nash has filed a no-merit report concluding no grounds exist to challenge Nash's conviction for possession with intent to distribute crack cocaine, as a second and subsequent offense. Nash was advised of his right to respond and has failed to respond. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S 738

(1967), we conclude there is no arguable issue of merit that could be raised on appeal and summarily affirm.

Nash pleaded guilty to possession with intent to deliver crack cocaine, as a second and subsequent offense. Another charge of possession with intent to deliver designer drugs, as a second and subsequent offense, was dismissed and read in. The circuit court imposed three years' initial confinement and two years' extended supervision.

There is no manifest injustice upon which Nash may withdraw his plea. See *State v. Duychak*, 133 Wis. 2d 307, 312, 395 N.W.2d 795 (Ct. App. 1986). The circuit court's exemplary plea colloquy, together with the plea questionnaire and waiver of rights form with attachments, which Nash signed, informed Nash of the constitutional rights he waived by pleading guilty, the elements of the offense, and the potential punishment. The court specifically advised Nash it was not bound by the parties' agreement and could impose the maximum penalty. The court also advised Nash of the potential deportation consequences of his plea. Nash conceded a factual basis supporting the present conviction, and he also conceded he had a prior conviction for possession with intent to deliver cocaine. The record demonstrates the plea was entered knowingly, voluntarily, and intelligently. See *State v. Bangert*, 131 Wis. 2d 246, 260, 389 N.W.2d 12 (1986). Entry of a valid guilty or no-contest plea constitutes a waiver of nonjurisdictional defects and defenses. *Id.* at 265-66.

The record also discloses no basis for challenging the circuit court's sentencing discretion. The court considered the proper factors, including Nash's character, the seriousness of the offense, and the need to protect the public. See *State v. Harris*, 119 Wis. 2d 612, 623, 350 N.W.2d 633 (1984). The court imposed a sentence far below the maximum sixteen years and six

months and \$25,000 fine allowable by law, and therefore the sentence is presumptively neither unduly harsh nor excessive. *See State v. Grindemann*, 2002 WI App 106, ¶32, 255 Wis. 2d 632, 648 N.W.2d 507.

Our independent review of the record discloses no other potential issues for appeal.

Therefore,

IT IS ORDERED that the judgment is summarily affirmed. WIS. STAT. RULE 809.21 (2015-16).

IT IS FURTHER ORDERED that attorney Michael Backes is relieved of further representing Nash in this matter.

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

Diane M. Fremgen
Clerk of Court of Appeals