



OFFICE OF THE CLERK  
**WISCONSIN COURT OF APPEALS**

110 EAST MAIN STREET, SUITE 215  
P.O. BOX 1688  
MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880  
TTY: (800) 947-3529  
Facsimile (608) 267-0640  
Web Site: [www.wicourts.gov](http://www.wicourts.gov)

**DISTRICT III**

December 19, 2017

To:

Hon. Jon M. Theisen  
Circuit Court Judge  
Eau Claire County Courthouse  
721 Oxford Avenue  
Eau Claire, WI 54703

Susan Schaffer  
Clerk of Circuit Court  
Eau Claire County Courthouse  
721 Oxford Avenue, Ste. 2220  
Eau Claire, WI 54703-5496

Gary King  
District Attorney  
721 Oxford Ave  
Eau Claire, WI 54703

Catherine Malchow  
Asst. State Public Defender  
P.O. Box 7862  
Madison, WI 53707-7862

Criminal Appeals Unit  
Department of Justice  
P.O. Box 7857  
Madison, WI 53707-7857

Shane E. White  
4515 Fairfax Street  
Eau Claire, WI 54701

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

---

2017AP483-CRNM      State of Wisconsin v. Shane E. White (L. C. No. 2016CF998)

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 Shane White filed a no-merit report concluding there is no arguable basis for White to withdraw his no-contest plea or to challenge the sentence imposed for felony bail jumping. White 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.

White was released on bond from a charge of felony domestic strangulation. A condition of his bond required him to participate in the Community Transition Center (CTC) program. The complaint in this case alleged White tested positive for the presence of methamphetamine and amphetamine and failed to report for additional testing. Therefore, his participation in the CTC program was terminated.

Pursuant to a plea agreement, White entered a no-contest plea to the bail jumping charge. The State agreed to dismiss and read in for sentencing purposes the strangulation charge and jointly recommended a withheld sentence and two years' probation. The circuit court accepted the no-contest plea and imposed the jointly-recommended term of probation.

The record discloses no arguable manifest injustice upon which White 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 White of the elements of the offense, the potential penalties and the constitutional rights he waived by pleading no contest. White told the court he had a high school diploma, had not been treated for any mental illness, and had not consumed any drugs or alcohol in the twenty-four hours preceding the plea. The court did not ask White whether any promises or threats induced the plea. However, appellate counsel states she is not aware of the existence of any threats or promises that would serve as grounds for withdrawing the plea, and White has not contradicted that statement.

During the plea colloquy, White asked that the batterer's treatment assessment be removed and requested the right to have immediate contact with his family. The court informed White that the plea agreement required White's probation officer to assess the situation and

allow access with his family as the officer deemed appropriate. When asked whether he wanted to proceed with the plea, White stated he did.

As required by *State v. Hampton*, 2004 WI 107, ¶2, 274 Wis. 2d 379, 683 N.W.2d 14, the court informed White that it was not bound by the parties' sentence recommendations. The court also complied with WIS. STAT. § 971.08(1)(c) (2015-16), requiring the court to inform a defendant of deportation possibilities. Our independent review of the record discloses no arguable basis for challenging 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.

There is no arguable basis for White to challenge the imposition of probation or the terms of probation set by the court because they were jointly recommended. See *State v. Sherreiks*, 153 Wis. 2d 510, 518, 451 N.W.2d 759 (Ct. App. 1989).

Our independent review of the record discloses no issue or arguable merit. Therefore,

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

IT IS FURTHER ORDERED that attorney Catherine Malchow is relieved of her obligation to further represent White in this matter. See WIS. STAT. RULE 809.32(3) (2015-16).

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

---

*Diane M. Fremgen*  
*Clerk of Court of Appeals*