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**DISTRICT III**

January 30, 2018

To:

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Circuit Court Judge  
Marinette County Courthouse  
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Sheila Dudka  
Clerk of Circuit Court  
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You are hereby notified that the Court has entered the following opinion and order:

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2017AP1291-CRNM      State of Wisconsin v. Michael J. Sohrweide (L. C. No. 2016CF49)

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 Michael Sohrweide filed a no-merit report concluding there is no arguable basis for Sohrweide to withdraw his no-contest plea or to challenge the sentence imposed for delivery of schedule I or II narcotics. Sohrweide 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.

The complaint charged Sohrweide with three counts of delivery of narcotics as a second or subsequent offense, and with maintaining a drug trafficking place. Pursuant to a plea agreement, Sohrweide entered a no-contest plea to one count of delivery of narcotics without the penalty enhancer. The other charges were dismissed and read in for sentencing purposes. The parties jointly recommended an imposed and stayed sentence of five years' initial confinement and five years' extended supervision, with four years' probation including a condition of one year in jail. The circuit court imposed the jointly recommended sentence.

The record discloses no arguable manifest injustice upon which Sohrweide could withdraw his no-contest plea. See *State v. Duychak*, 133 Wis. 2d 307, 312, 395 N.W.2d 795 (Ct. App. 1986). Sohrweide assured the circuit court that his plea was not the product of any threats or promises other than the plea agreement. The court's plea colloquy, supplemented by a Plea Questionnaire and Waiver of Rights form, informed Sohrweide of the constitutional rights he waived by pleading no contest, the elements of the offense, and the maximum penalties. As required by *State v. Hampton*, 2004 WI 107, ¶2, 274 Wis. 2d 379, 683 N.W.2d 14, the court informed Sohrweide it was not bound by the parties' sentence recommendations. The court also informed Sohrweide of the law regarding deportation as required by WIS. STAT. § 971.08(2)(c) (2015-16).<sup>1</sup> Sohrweide personally confirmed the facts recited in the complaint to serve as 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).

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

Because the sentence the court imposed was jointly recommended by the parties, Sohrweide may not challenge the sentence. See *State v. Scherreiks*, 153 Wis. 2d 510, 518, 451 N.W.2d 759 (Ct. App. 1989). In any event, the imposition of probation with one year in jail 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).

In the no-merit report, counsel reports Sohrweide believes the circuit court was biased against him based on the judge's personal familiarity with Sohrweide. At the initial appearance, the judge said,

Mr. Sohrweide was a student of mine many years ago at NWTC, but I remember it .... Well, I remember him, I liked him at the time. It has no impact upon what I am likely to do in this case and I think I raised this issue on the record before.

At the sentencing hearing, the court commented,

Because I had the benefit of having you in a class and knowing you in class, I have a unique opportunity because I saw you over, you know, whatever six months it was, and I had conversations with you and other people in the class, so I know a little bit more about you than I do about most defendants, and I know you're basically a good guy who made some dumb guy choices.

These comments do not show bias against Sohrweide. WISCONSIN STAT. § 757.19(2) lists the circumstances in which a judge must disqualify himself or herself. Because the judge found that his familiarity with Sohrweide would have "no impact" on his decisions in this case, none of the grounds for disqualification of the judge are met.

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 Daniel Goggin II is relieved of his obligation to further represent Sohrweide in this matter. *See* WIS. STAT. RULE 809.32(3).

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

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