



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

DISTRICT III

January 30, 2018

To:

Hon. Lamont K. Jacobson
Circuit Court Judge, Br. 3
500 Forest St.
Wausau, WI 54403

Vicki Zick
Zick Legal LLC
P.O. Box 325
Johnson Creek, WI 53038

Shirley Lang
Clerk of Circuit Court
Marathon County Courthouse
500 Forest St.
Wausau, WI 54403

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

Theresa Wetzsteon
District Attorney
500 Forest St.
Wausau, WI 54403-5554

Daniel M. Strohkirch 156935
Dodge Corr. Inst.
P.O. Box 700
Waupun, WI 53963-0700

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

2016AP1938-CRNM State v. Daniel M. Strohkirch
2016AP1939-CRNM (L. C. Nos. 2015CF254, 2015CF1147)

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 Daniel Strohkirch has filed a no-merit report concluding there is no basis to challenge Strohkirch's convictions for domestic abuse battery and three counts of bail jumping. Strohkirch was advised of his right to respond and has not responded. Upon our independent review of the records as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude there is no arguable merit to any issue that could be raised on appeal. We therefore affirm the judgments.

Police responded to a domestic altercation and, when nobody answered the door, they spoke to a neighbor who reported observing Strohkirsch's girlfriend outside crying. The neighbor stated the girlfriend told him that she had been hit by Strohkirsch. Police were unable to locate Strohkirsch's girlfriend at that time. Police responded a second time an hour later to investigate the neighbor's report that Strohkirsch had just stopped by and threatened to kill him for calling the police concerning the domestic abuse. On this second visit, police made contact with Strohkirsch's girlfriend, who told police that Strohkirsch had struck her multiple times that evening and also on the previous Saturday. She also stated that Strohkirsch had ripped the phone cord from the wall when she tried to call police and threatened to harm her if she called. As a result, Strohkirsch was charged with two counts of battery, two counts of disorderly conduct, and two counts of intimidation of a victim in Marathon County case No. 2015CF254.

Several days before Strohkirsch's battery case was set to be tried, police met with a different neighbor, who complained that despite the fact that she had not witnessed the domestic abuse incident, Strohkirsch had contacted her five or six times asking her to testify at the battery trial that nothing had happened and his girlfriend was simply crazy. That same day, Strohkirsch's girlfriend told police that Strohkirsch had sent her numerous text messages, in violation of his bond in the battery case. Strohkirsch was subsequently charged in Marathon County case No. 2015CF1147 with solicitation of perjury and six counts of bail jumping. After consolidation, Strohkirsch pleaded no contest to a battery count, guilty to three bail jumping counts, and all the remaining counts were dismissed and read in. The circuit court imposed nine months' jail on the battery count, and concurrent sentences of two years' initial confinement and three years' extended supervision on each of the bail jumping counts.

There is no manifest injustice upon which Strohkirch could withdraw his pleas. *See State v. Duychak*, 133 Wis. 2d 307, 312, 395 N.W.2d 795 (Ct. App. 1986). The circuit court’s plea colloquy, together with the plea questionnaire and waiver of rights form Strohkirch signed, and the attached documents including jury instructions, informed Strohkirch of the constitutional rights he waived by pleading, the elements of the offenses, and the potential punishment. The court specifically advised Strohkirch it could impose the maximum penalties and was not bound by the parties’ agreement. The court also advised Strohkirch of the potential deportation consequences of his pleas, as mandated by WIS. STAT. § 971.08(1)(c) (2015-16).¹ The criminal complaint provided a sufficient factual basis supporting the conviction. The court also confirmed that Strohkirch’s anxiety medication did not affect his ability to understand the proceedings. The pleas were knowingly, voluntarily and intelligently entered. *See State v. Bangert*, 131 Wis. 2d 246, 260, 389 N.W.2d 12 (1986). Entry of a valid no contest or guilty plea constitutes a waiver of nonjurisdictional defenses and defects. *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 Strohkirch’s character, the seriousness of the offenses, and the need to protect the public. *See Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). The court noted Strohkirch’s extensive criminal history, his “profound lack of insight,” and the severity of the offenses. The court appropriately concluded confinement was necessary. The sentence imposed was well within the maximum allowable and neither overly harsh nor excessive. *See id.*

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 issues for appeal.

Therefore,

IT IS ORDERED that the judgments are summarily affirmed. WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that attorney Vicki Zick is relieved of further representing Strohkirch in these matters. WIS. STAT. RULE 809.32(3).

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

Diane M. Fremgen
Acting Clerk of Court of Appeals