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**DISTRICT III/IV**

September 14, 2018

To:

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

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2017AP1183-CRNM      State of Wisconsin v. Mitchell W. Coonan (L.C. # 2016CF112)

Before Lundsten, P.J., Blanchard, and Fitzpatrick, 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).**

Attorney Colleen Marion, appointed counsel for Mitchell W. Coonan, has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2015-16)<sup>1</sup> and *Anders v. California*, 386 U.S. 738, 744 (1967). The no-merit report addresses whether there

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

would be arguable merit to a challenge to Coonan's plea or sentencing. Coonan was sent a copy of the report, but has not filed a response. Upon independently reviewing the entire record, as well as the no-merit report, we agree with counsel's assessment that there are no arguably meritorious appellate issues. Accordingly, we affirm.

Coonan was charged with stalking, threatening to commit injury to a person with intent to extort money, and disorderly conduct. Pursuant to a plea agreement, Coonan pleaded guilty to stalking, and the remaining charges were dismissed and read-in for sentencing purposes. The court withheld sentence and imposed three years of probation with ninety days of conditional jail time.

First, the no-merit report addresses whether there would be arguable merit to a challenge to Coonan's plea. A post-sentencing motion for plea withdrawal must establish that plea withdrawal is necessary to correct a manifest injustice, such as a plea that was not knowing, intelligent, and voluntary. *State v. Brown*, 2006 WI 100, ¶18, 293 Wis. 2d 594, 716 N.W.2d 906. Here, the circuit court conducted a plea colloquy that, together with the plea questionnaire that Coonan signed, satisfied the court's mandatory duties to personally address Coonan and determine information such as Coonan's understanding of the nature of the charge and the range of punishments he faced, the constitutional rights he waived by entering a plea, and the direct consequences of the plea.<sup>2</sup> See *State v. Hoppe*, 2009 WI 41, ¶¶18, 30, 317 Wis. 2d 161, 765

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<sup>2</sup> Although the court failed to personally advise Coonan of the deportation, exclusion, or denial of naturalization consequences of his plea, contrary to WIS. STAT. § 971.08(1)(c) and (2), the record indicates that Coonan was born in Wisconsin and is therefore a United States citizen. We determine that this issue lacks arguable merit for appeal.

N.W.2d 794. There is no indication of any other basis for plea withdrawal. Accordingly, we agree with counsel's assessment that a challenge to Coonan's plea would lack arguable merit.

Next, the no-merit report addresses whether there would be arguable merit to a challenge to Coonan's sentence. We agree with counsel's assessment that this issue lacks arguable merit. Our review of a sentence determination begins "with the presumption that the trial court acted reasonably, and the defendant must show some unreasonable or unjustifiable basis in the record for the sentence complained of." *State v. Krueger*, 119 Wis. 2d 327, 336, 351 N.W.2d 738 (Ct. App. 1984). Here, the court allowed Coonan the opportunity to address the court before the court made its sentencing decision. The court explained that it considered facts pertinent to the standard sentencing factors and objectives, including the seriousness of the offense, Coonan's character, and the need to protect the public. *See State v. Gallion*, 2004 WI 42, ¶¶39-46 & n.11, 270 Wis. 2d 535, 678 N.W.2d 197. The court withheld sentence and imposed three years of probation with ninety days of conditional jail time, which is within the maximums allowed by statute. WIS. STAT. § 973.09(2)(b)1. and (4)(a). We discern no basis to challenge the court's sentencing decision.

Upon our independent review of the record, we have found no other arguable basis for reversing the judgment of conviction. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

IT IS ORDERED that the judgment of conviction is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Colleen Marion is relieved of any further representation of Mitchell W. Coonan 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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*Sheila T. Reiff*  
*Clerk of Court of Appeals*