



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 IV

January 29, 2019

To:

Hon. Josann M. Reynolds
Circuit Court Judge
215 S. Hamilton St.
Madison, WI 53703

Carlo Esqueda
Clerk of Circuit Court
215 S. Hamilton St., Rm. 1000
Madison, WI 53703

Michael J. Herbert
10 Daystar Ct., Ste. C
Madison, WI 53704-7358

Stephanie R. Hilton
Assistant District Attorney
Rm. 3000
215 S. Hamilton St.
Madison, WI 53703-3211

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

Michael J. Deterick
1502 Greenway Cross, #101A
Madison, WI 53713

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

2017AP1975-CRNM State of Wisconsin v. Michael J. Deterick (L.C. # 2016CF1679)

Before Sherman, Kloppenburg 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).

Michael Deterick appeals a judgment convicting him, based upon guilty pleas, of being party to the crimes of stalking and identity theft to obtain money or credit. Attorney Michael Herbert has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT.

RULE 809.32 (2015-16);¹ *Anders v. California*, 386 U.S. 738, 744 (1967). The no-merit report addresses the validity of Deterick's pleas and sentences. Deterick was sent a copy of the report, but has not filed a response. Upon reviewing the entire record, as well as the no-merit report, we conclude that there are no arguably meritorious appellate issues.

First, we see no arguable basis for plea withdrawal. The circuit court conducted a plea colloquy, inquiring into Deterick's ability to understand the proceedings and the voluntariness of his pleas, and further exploring his understanding of the nature of the charges, the penalty ranges and other direct consequences of the pleas, and the constitutional rights being waived. In addition, Deterick provided the court with a signed plea questionnaire, with attached jury instruction sheets setting forth the elements of the offenses. The facts Deterick admitted on the record—namely, that he had a friend call his ex-girlfriend's boss to make derogatory statements about her while she had an injunction against him, and gave the ex-girlfriend's personal information to a friend so that the friend could open a credit account—provided a sufficient factual basis for the pleas. In conjunction with the plea questionnaire and complaint, the colloquy was sufficient to satisfy the court's obligations under WIS. STAT. § 971.08. *See State v. Hoppe*, 2009 WI 41, ¶ 18, 317 Wis. 2d 161, 765 N.W.2d 794; *State v. Moederndorfer*, 141 Wis. 2d 823, 827-28, 416 N.W.2d 627 (Ct. App. 1987). We further note that there is nothing in the record to suggest that trial counsel's performance was in any way deficient leading up to the plea, and Deterick has not alleged any other facts that would give rise to a manifest injustice.

¹ All further references in this order to the Wisconsin Statutes are to the 2015-16 version, unless otherwise noted.

A challenge to Deterick's sentences would also lack arguable merit, because the circuit court followed the joint recommendation of the parties and imposed probation on each count. *See State v. Scherreiks*, 153 Wis. 2d 510, 518, 451 N.W.2d 759 (Ct. App. 1989) (a defendant may not challenge on appeal a sentence that he affirmatively approved).

Upon an 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.

Accordingly,

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

IT IS FURTHER ORDERED that Attorney Michael Herbert is relieved of any further representation of Michael Deterick in this matter pursuant to WIS. STAT. RULE 809.32(3).

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

Sheila T. Reiff
Clerk of Court of Appeals