



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 I/IV

May 30, 2019

To:

Hon. Michelle Ackerman Havas
Circuit Court Judge
Milwaukee County Courthouse
901 N. 9th St., Rm. 504
Milwaukee, WI 53233

John Barrett
Clerk of Circuit Court
Room 114
821 W. State Street
Milwaukee, WI 53233

Karen A. Loebel
Deputy District Attorney
821 W. State St.
Milwaukee, WI 53233

Bradley J. Lochowicz
Seymour, Kremer, Koch,
Lochowicz & Duquette
P.O. Box 470
Elkhorn, WI 53121-0470

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

Ronald Earl Williams 193814
Stanley Correctional Inst.
100 Corrections Drive
Stanley, WI 54768

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

2018AP785-CRNM State of Wisconsin v. Ronald Earl Williams (L.C. # 2017CF3073)

Before Blanchard, 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).

Attorney Bradley J. Lochowicz, appointed counsel for Ronald Earl Williams, has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2017-18)¹

¹ All references to the Wisconsin Statutes are to the 2017-18 version unless otherwise noted.

and *Anders v. California*, 386 U.S. 738, 744 (1967). The no-merit report addresses whether there would be arguable merit to a challenge to Williams' plea or sentencing. Williams 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 that there are no issues of arguable merit. We affirm.

In June 2017, Williams was charged with three counts of armed robbery and three counts of possession of a firearm by a felon, all as a repeater. Pursuant to a plea agreement, Williams pled guilty to two counts of armed robbery without the repeater enhancer, and the remaining counts were dismissed and read-in for sentencing purposes. The court sentenced Williams to a total of eighteen years of initial confinement and eighteen years of extended supervision.

The no-merit report addresses whether there would be arguable merit to a challenge to Williams' plea. A post-sentencing motion for plea withdrawal must establish that plea withdrawal is necessary to correct a manifest injustice, such as ineffective assistance of counsel, a plea that was not knowing, intelligent, and voluntary, or lack of a factual basis to support the plea. *State v. Krieger*, 163 Wis. 2d 241, 250-51 & n.6, 471 N.W.2d 599 (Ct. App. 1991). Here, the circuit court conducted a plea colloquy that, together with the plea questionnaire that Williams signed, satisfied the court's mandatory duties to personally address Williams and determine information such as Williams' understanding of the nature of the charges and the range of punishments he faced, the constitutional rights he waived by entering a plea, and the direct consequences of the plea. See *State v. Hoppe*, 2009 WI 41, ¶¶18, 30, 317 Wis. 2d 161, 765 N.W.2d 794. The criminal complaint provided a factual basis for the plea. There is no indication of any other basis for plea withdrawal. Accordingly, we agree with counsel's assessment that a challenge to Williams' plea would lack arguable merit.

The no-merit report also addresses whether there would be arguable merit to a challenge to Williams’ sentence. We agree with counsel that this issue lacks arguable merit. A challenge to a circuit court’s exercise of its sentencing discretion must overcome our presumption that the sentence was reasonable. *State v. Ramuta*, 2003 WI App 80, ¶23, 261 Wis. 2d 784, 661 N.W.2d 483. Here, the court explained that it considered facts pertinent to the standard sentencing factors and objectives, including Williams’ character, the gravity of the offenses, and the need to protect the public. *See State v. Gallion*, 2004 WI 42, ¶¶17-51, 270 Wis. 2d 535, 678 N.W.2d 197. The sentence was within the maximum Williams faced and, given the facts of this case, there would be no arguable merit to a claim that the sentence was unduly harsh or excessive. *See State v. Stenzel*, 2004 WI App 181, ¶21, 276 Wis. 2d 224, 688 N.W.2d 20 (a sentence is unduly harsh or excessive “only where the sentence is so excessive and unusual and so disproportionate to the offense committed as to shock public sentiment and violate the judgment of reasonable people concerning what is right and proper under the circumstances” (quoting *Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975))). We discern no basis to challenge the sentence imposed by the circuit court.²

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.

² At the plea and sentencing hearing, the court accepted the State’s recommendation under the plea agreement and dismissed the repeater enhancers. However, the judgment of conviction includes the repeater designation under WIS. STAT. § 939.62. Because this appears to be a clerical error, upon remittitur, the court shall enter an amended judgment of conviction without the repeater designation.

IT IS ORDERED that the judgment of conviction is modified to conform to the oral sentencing pronouncement by removing the repeater provision as to both counts of conviction; the judgment is summarily affirmed as modified; and the cause remanded for entry of a corrected judgment of conviction. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Bradley J. Lochowicz is relieved of any further representation of Ronald Earl Williams in this matter. *See* 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