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October 16, 2019

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

2018AP1451-CRNM State v. Darien J. Taulman (L.C. # 2017CF1830)

Before Fitzpatrick, P.J., Blanchard and Graham, 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 Christopher P. August, appointed counsel for Darien J. Taulman, has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2017-18);[1] ***Anders v. California***, 386 U.S. 738, 744 (1967). The no-merit report addresses whether there

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

would be arguable merit to a challenge to Taulman's plea or sentencing. Taulman 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.

Taulman was charged with two counts of first-degree sexual assault of a child, under a provision that included a twenty-five year mandatory minimum, two counts of sexual exploitation of a child, and one count of possession of child pornography. Pursuant to a plea agreement, Taulman pled guilty to an amended count of first-degree sexual assault of a child, under a provision that did not include the twenty-five year mandatory minimum, and a single count of sexual exploitation of a child. The remaining charges were dismissed and read-in for sentencing purposes. The court sentenced Taulman to thirty-three years of initial confinement and twenty years of extended supervision.

First, the no-merit report addresses whether there would be arguable merit to a challenge to Taulman'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 Taulman signed, satisfied the court's mandatory duties to personally address Taulman and determine information such as Taulman's 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.[2] *See* ***State v. Hoppe***, 2009 WI 41, ¶¶18, 30, 317 Wis. 2d 161, 765 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 Taulman's plea would lack arguable merit.

Next, the no-merit report addresses whether there would be arguable merit to a challenge to Taulman's sentence. We agree with counsel that this issue lacks arguable merit. Our review of a sentencing 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 explained that it considered facts pertinent to the standard sentencing factors and objectives, including the seriousness of the offenses, Taulman'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 sentence was within the maximum Taulman 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"

[2] Although the court failed to advise Taulman that it was not bound by the terms of the plea agreement, as required under ***State v. Hampton***, 2004 WI 107, ¶32, 274 Wis. 2d 379, 683 N.W.2d 14, Taulman received the benefit of the plea agreement. Therefore, this defect in the colloquy does not present a manifest injustice warranting plea withdrawal. *See* ***State v. Johnson***, 2012 WI App 21, ¶12, 339 Wis. 2d 421, 811 N.W.2d 441.

(citation omitted)). The court awarded Taulman 122 days of sentence credit, at Taulman's request. We discern no other basis to challenge the sentence imposed by the circuit court.

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 Christopher P. August is relieved of any further representation of Darien J. Taulman 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