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

2018AP1861-CRNM State of Wisconsin v. Glenn Alphonzo Partee (L.C. # 2017CF2425)

Before Brash, P.J., Dugan and Donald, 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).

Glenn Alphonzo Partee appeals a judgment convicting him of two felonies, both as a repeater under WIS. STAT. § 939.62(1)(b) (2017-18).[1] Attorney Pamela Moorshead has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32; *see also* ***Anders v. California***, 386 U.S. 738, 744 (1967). The no-merit report addresses the validity of

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

his pleas, the factual basis for the pleas, and the circuit court's exercise of sentencing discretion. Partee was sent a copy of the report, and has not filed a response. Upon reviewing the entire record as mandated by ***Anders***, 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. In order to withdraw a plea after sentencing, a defendant must either show that the plea colloquy was defective in a manner that resulted in the defendant actually entering an unknowing plea, or demonstrate some other manifest injustice such as coercion, the lack of a factual basis to support the charge, ineffective assistance of counsel, or failure by the prosecutor to fulfill the plea agreement. ***State v. Bangert***, 131 Wis. 2d 246, 272-76, 389 N.W.2d 12 (1986); ***State v. Krieger***, 163 Wis. 2d 241, 249-51 & n.6, 471 N.W.2d 599 (Ct. App. 1991). There is no indication of any such defect here.

Partee was charged with one count of possession of a firearm by a felon and one count of possession with intent to deliver cocaine, as a second or subsequent offense. *See* WIS. STAT. §§ 941.29(1m)(a), 961.41(1m)(cm), 961.48(1)(a). Both counts were charged as repeaters. *See* WIS. STAT. § 939.62(1)(b). Partee entered pleas to both counts pursuant to a negotiated plea agreement that was presented in open court. In exchange for Partee's pleas, the State agreed to cap its sentencing recommendation at a total of forty months of initial confinement and forty-eight months of extended supervision.

The circuit court conducted a standard plea colloquy, inquiring into Partee's ability to understand the proceedings and the voluntariness of his plea decisions, 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. *See* ***State v. Hoppe***, 2009 WI 41, ¶18, 317

Wis. 2d 161, 765 N.W.2d 794; and ***Bangert***, 131 Wis. 2d at 266-72. The court made sure Partee understood that it would not be bound by any sentencing recommendations. In addition, Partee provided the court with a signed plea questionnaire and a written addendum outlining additional rights being waived. Partee indicated to the court that he understood the information explained on those forms, and is not now claiming otherwise. *See* ***State v. Moederndorfer***, 141 Wis. 2d 823, 827-28, 416 N.W.2d 627 (Ct. App. 1987).

Partee confirmed that the facts in the criminal complaint were substantially true and agreed that the complaint could be used as the factual basis for the pleas. The complaint alleged that Partee was a passenger in a car that was the subject of a traffic stop, that he fled from police on foot, and that he was observed holding a firearm. The complaint further alleged that a search of the vehicle revealed two bags of a substance suspected to be cocaine, weighing 1.96 grams. The complaint also alleged that Partee had two prior felony drug convictions. We agree with counsel's assertion that there would be no arguable merit to challenging the factual basis for the pleas.

Partee indicated satisfaction with his attorney, and there is nothing in the record to suggest that counsel's performance was in any way deficient. Partee has not alleged any other facts that would give rise to a manifest injustice. Therefore, the pleas were valid and operated to waive all nonjurisdictional defects and defenses, aside from any suppression ruling. ***State v. Kelty***, 2006 WI 101, ¶18, 294 Wis. 2d 62, 716 N.W.2d 886; WIS. STAT. § 971.31(10).

There also is no arguable merit to a claim that the circuit court improperly exercised its sentencing discretion. In imposing sentence, the court considered the seriousness of the offenses, Partee's character, and the need to protect the public. *See* ***State v. Gallion***, 2004 WI 42, ¶¶40-44,

270 Wis. 2d 535, 678 N.W.2d 197. The court imposed two years of initial confinement and two years of extended supervision on count one, consecutive to the sentence on count two, which was one year and six months of initial confinement and two years of extended supervision. Partee faced a possible total of thirty-six years and six months of imprisonment. Under the circumstances, it cannot reasonably be argued that Partee's sentences are so excessive as to shock public sentiment. *See* ***Ocanas v. State***, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975).

Upon our independent review of the record, we have found no other arguable basis for reversing the judgment of conviction. *See* ***State v. Allen***, 2010 WI 89, ¶¶81-82, 328 Wis. 2d 1, 786 N.W.2d 124. 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 counsel is relieved of any further representation of the defendant 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