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**DISTRICT II**

December 2, 2020

To:

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Robert L. Heath  
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You are hereby notified that the Court has entered the following opinion and order:

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2019AP2132-CRNM      State of Wisconsin v. Robert L. Heath (L.C. #2017CM108)

Before Davis, J.<sup>1</sup>

**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).**

Robert L. Heath appeals from the judgment convicting him of misdemeanor bail jumping. Appointed appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 and

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<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(f) (2017-18). All references to the Wisconsin Statutes are to the 2017-18 version unless otherwise noted

*Anders v. California*, 386 U.S. 738 (1967). Heath was advised of his right to file a response but has not done so. Upon consideration of the no-merit report and an independent review of the record as mandated by *Anders* and RULE 809.32, we summarily affirm the judgment because there is no arguable merit to any issue that could be raised on appeal. *See* WIS. STAT. RULE 809.21.

Heath was charged with misdemeanor bail jumping. Pursuant to a plea agreement, Heath pled guilty; the State moved to dismiss and read in the charges in Heath's other pending cases; Heath agreed to pay restitution up front; and the parties jointly recommended a \$100 fine plus costs. After a contested restitution hearing, the court commissioner set the restitution amount and Heath paid the restitution before sentencing. The court followed the joint sentencing recommendation.

The no-merit report addresses whether there would be arguable merit to a challenge to Heath's plea. A postsentencing 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 Heath signed, satisfied the court's mandatory duties to personally address Heath and determine information such as Heath'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. *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 Heath's plea would lack arguable merit. A

valid guilty plea constitutes a waiver of all nonjurisdictional defects and defenses. *State v. Kelty*, 2006 WI 101, ¶18, 294 Wis.2d 62, 716 N.W.2d 886.

The no-merit report also addresses whether there would be arguable merit to a challenge to Heath's sentence. We agree with counsel that this issue lacks arguable merit. Because Heath received the sentence he affirmatively approved, he is barred from challenging the sentence on appeal. *See State v. Scherreiks*, 153 Wis. 2d 510, 517-18, 451 N.W.2d 759 (Ct. App. 1989). 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 Jay R. Pucek is relieved from further representing Robert L. Heath in this appeal. *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*