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DISTRICT IV

December 10, 2020

To:

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

2020AP221-CRNM State of Wisconsin v. Cadius Dubage Dumellow Jackson
(L.C. # 2014CF160)

Before Nashold, J.¹

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 Jeremy Newman, appointed counsel for Cadius Dubage Dumellow Jackson, has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(f) (2017-18).

(2017-18)² 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 the circuit court's denial of Jackson's suppression motion or to Jackson's plea or sentencing. Jackson 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, I agree with counsel's assessment that there are no arguably meritorious appellate issues. Accordingly, I affirm.

Jackson was charged with operating a motor vehicle while intoxicated (OWI), as a fourth offense within five years; operating with a prohibited alcohol concentration, as a fourth offense within five years; possession of THC as a second or subsequent offense; possession of cocaine; operating after revocation; and operating with a restricted controlled substance in the blood, as a fourth offense within five years. Jackson moved to suppress evidence obtained during the police stop of his vehicle, and the circuit court denied the motion. Pursuant to a plea agreement, Jackson then pled no contest to an amended charge of OWI as a third offense, following the parties' stipulation that one of his prior OWIs could be successfully collaterally attacked, and possession of cocaine; the remaining charges were dismissed; and the parties jointly recommended 45 days in jail on Count 1 and six months of consecutive jail on Count 4, concurrent to a sentence Jackson was currently serving in Illinois. The court followed the joint sentencing recommendation.

First, the no-merit report addresses whether there would be arguable merit to a challenge to the circuit court's decision denying Jackson's suppression motion. *See* WIS. STAT.

² All references to the Wisconsin Statutes are to the 2017-18 version unless otherwise noted.

§ 971.31(10) (order denying suppression motion may be appealed despite no-contest plea). I agree with the analysis set forth in the no-merit report as to this issue and I adopt it here. I agree with counsel's assessment that further proceedings on this issue would lack arguable merit.

The no-merit report also addresses whether there would be arguable merit to a challenge to Jackson'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 Jackson signed, satisfied the court's mandatory duties to personally address Jackson and determine information such as Jackson'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, I agree with counsel's assessment that a challenge to Jackson's plea would lack arguable merit. A valid no-contest 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.

Finally, the no-merit report addresses whether there would be arguable merit to a challenge to Jackson's sentence. I agree with counsel that this issue lacks arguable merit. Because Jackson 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). I discern no other basis to challenge the sentence imposed by the circuit court.

Upon my independent review of the record, I have found no other arguable basis for reversing the judgment of conviction. I 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 Jeremy Newman is relieved of any further representation of Cadius Dubage Dumellow Jackson 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