



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 II

February 3, 2021

To:

Hon. Daniel J. Borowski
Circuit Court Judge
Sheboygan County Courthouse
615 N. 6th St.
Sheboygan, WI 53081

Melody Lorge
Clerk of Circuit Court
Sheboygan County Courthouse
615 N. 6th St.
Sheboygan, WI 53081

Jay R. Pucek
Assistant State Public Defender
735 N. Water St. Ste. 912
Milwaukee, WI 53202-4105

Joel Urmanski
District Attorney
615 N. 6th St.
Sheboygan, WI 53081

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

Nathanial Joseph Hansen 680038
Oshkosh Correctional Inst.
P.O. Box 3310
Oshkosh, WI 54903-3310

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

2020AP483-CRNM State of Wisconsin v. Nathanial Joseph Hansen (L.C. #2018CF736)

Before Neubauer, C.J., Gundrum and Davis, 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 Jay R. Pucek, appointed counsel for Nathanial Joseph Hansen, has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2017-18)¹ and *Anders v. California*, 386 U.S. 738, 744 (1967). The no-merit report addresses whether

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

there would be arguable merit to a challenge to Hansen's plea or sentencing. Hansen was sent a copy of the report, but has not filed a response. Upon independently reviewing the entire record and the no-merit report, we agree with counsel's assessment that there are no arguably meritorious appellate issues. Accordingly, we affirm.

Hansen was charged with two counts of battery, two counts of strangulation and suffocation, and one count of first-degree recklessly endangering safety, all as domestic abuse. Pursuant to a plea agreement, Hansen pled no contest to the two counts of strangulation and suffocation and one count of first-degree recklessly endangering safety, all as domestic abuse; the remaining charges and a misdemeanor charge in another case were dismissed and read in for sentencing purposes; and the State recommended six years of initial confinement and seven years of extended supervision. The court sentenced Hansen to seven years of initial confinement and eight years of extended supervision.

First, the no-merit report addresses whether there would be arguable merit to a challenge to Hansen'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 Hansen signed, satisfied the court's mandatory duties to personally address Hansen and determine information such as Hansen'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. *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 Hansen'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 Hansen’s sentence. We agree with counsel that this issue lacks arguable merit. Our review of a sentence determination begins “with the presumption that the [circuit] 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 severity of the offenses, Hansen’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 Hansen 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” (citation omitted)). 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 of any further representation of Nathaniel Hansen 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