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**DISTRICT II**

March 24, 2021

To:

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William N. Towner  
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Oshkosh, WI 54903

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

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2020AP988-CRNM      State of Wisconsin v. William N. Towner (L.C. #2018CM1131)

Before Neubauer, C.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).**

Attorney Vicki Zick, appointed counsel for William N. Towner, has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 and *Anders v.*

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<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(f) (2019-20). All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

*California*, 386 U.S. 738, 744 (1967). The no-merit report addresses whether there would be arguable merit to a challenge to Towner's plea or sentencing or the restitution ordered by the circuit court. Towner 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.

Towner was charged with two counts of receiving stolen property as a repeater. Pursuant to a plea agreement, Towner pled no contest to the charges without the repeater enhancers and the parties jointly recommended eighteen months of probation. The court followed the joint sentencing recommendation, withholding sentence and placing Towner on probation for eighteen months. After a contested restitution hearing, the court ordered Towner to pay \$2792.18 in restitution.

The no-merit report addresses whether there would be arguable merit to a challenge to Towner'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 Towner signed, satisfied the court's mandatory duties to personally address Towner and determine information such as Towner'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 Towner'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 the circuit court's sentencing decision. We agree with counsel that this issue lacks arguable merit. Because Towner received the sentencing disposition he affirmatively approved, he is barred from challenging that disposition 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 circuit court's decision as to sentencing.

Finally, the no-merit report addresses whether there would be arguable merit to a challenge to the circuit court's restitution award. We agree with counsel's assessment that any challenge to the restitution award, including the contested restitution to the victim of a burglary that was connected to Towner's receipt of stolen property, would be wholly frivolous. See *State v. Wiskerchen*, 2019 WI 1, ¶¶18, 25, 385 Wis. 2d 120 (providing that restitution orders are discretionary, and that the victim must show that there is a "causal nexus between the crime and the victim's losses," but that "crime" is construed broadly and that "[t]he court considers the defendant's entire course of conduct in committing the crime of conviction, not merely the facts necessary to support the conviction." (citation omitted)).

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 Vicki Zick is relieved of any further representation of William N. Towner in this matter. *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*