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DISTRICT IV

February 3, 2022

To:

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Circuit Court Judge
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Clerk of Circuit Court
Dodge County Justice Facility
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Mark A. Schoenfeldt
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Jonathon J. Teichmiller
321½ E. Main St, Apt. 4
Waupun, WI 53963

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

2021AP543-CRNM State of Wisconsin v. Jonathon J. Teichmiller (L.C. # 2017CF408)

Before Kloppenburg, Graham, and Nashold, 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 Mark Schoenfeldt, appointed counsel for appellant Jonathon Teichmiller, has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2019-20)¹ 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 sentence imposed by the circuit court. Teichmiller was sent a copy of the report, but has not filed a response. Upon our

¹ All references to the Wisconsin Statutes are to the 2019-20 version.

independent review of the entire record, as well as the no-merit report, we agree with counsel's assessment that there are no arguably meritorious appellate issues. We affirm.

Teichmiller was sentenced after revocation of his probation. The circuit court imposed a sentence of seventeen months of initial confinement and two years of extended supervision.

This appeal from the sentence following revocation does not bring the underlying conviction before us. See *State v. Drake*, 184 Wis. 2d 396, 399, 515 N.W.2d 923 (Ct. App. 1994). Additionally, the validity of the probation revocation itself is not before us. See *State ex rel. Flowers v. DHSS*, 81 Wis. 2d 376, 384, 260 N.W.2d 727 (1978) (probation revocation independent from underlying criminal action); see also *State ex rel. Johnson v. Cady*, 50 Wis. 2d 540, 550, 185 N.W.2d 306 (1971) (judicial review of probation revocation is by petition for certiorari in circuit court). The only potential postconviction or appellate issues at this point in the proceedings relate to the sentencing following revocation.

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.”² *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 Teichmiller's rehabilitative needs, the need to protect the public, and the gravity of the offense. See *State v. Gallion*, 2004 WI 42, ¶¶39-46, 270 Wis. 2d 535, 678 N.W.2d 197. The sentence was within the maximum Teichmiller faced

² A circuit court's duty at sentencing after revocation is the same as its duty at an original sentencing. See *State v. Wegner*, 2000 WI App 231, ¶7 n.1, 239 Wis. 2d 96, 619 N.W.2d 289.

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” (quoted source omitted)). The court granted Teichmiller 446 days of sentence credit, on counsel’s stipulation, and we discern no basis for an argument that Teichmiller was entitled to additional credit.

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 Mark Schoenfeldt is relieved of any further representation of Jonathon Teichmiller 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