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DISTRICT III/II

January 23, 2013

To:

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

2012AP1324-CRNM	State of Wisconsin v. John J. Molnar (L.C. # 2011CF225)
2012AP1325-CRNM	State of Wisconsin v. John J. Molnar (L.C. # 2011CF492)

Before Brown, C.J., Neubauer, P.J., and Gundrum, J.

In these consolidated appeals, John J. Molnar appeals from judgments convicting him of (1) operating while intoxicated causing injury, second and subsequent offense; (2) vehicle operator flee/elude a traffic officer resulting in bodily harm; and (3) burglary of a building or dwelling. Molnar's appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2009-10)¹ and *Anders v. California*, 386 U.S. 738 (1967). Molnar filed two responses.

¹ All references to the Wisconsin Statutes are to the 2009-10 version.

After reviewing the record, counsel's no-merit report, and Molnar's responses, we conclude that there are no issues with arguable merit for appeal. Therefore, we summarily affirm the judgments. WIS. STAT. RULE 809.21.

The no-merit report addresses the following appellate issues: (1) whether Molnar's pleas of no contest were knowingly, intelligently, and voluntarily entered; and (2) whether the circuit court erroneously exercised its discretion at sentencing.

With respect to the entry of the no contest pleas, the record shows that the circuit court engaged in a colloquy with Molnar that satisfied the requirements of WIS. STAT. § 971.08(1)(a), *State v. Bangert*, 131 Wis. 2d 246, 266-72, 389 N.W.2d 12 (1986), and *State v. Hampton*, 2004 WI 107, ¶¶33, 38, 274 Wis. 2d 379, 683 N.W.2d 14. In addition, a signed plea questionnaire and waiver of rights form was entered into the record. We agree with counsel that any challenge to the entry of Molnar's no contest pleas would lack arguable merit.

With respect to the sentences imposed, the record reveals that the circuit court's sentencing decisions had a "rational and explainable basis." *State v. Gallion*, 2004 WI 42, ¶76, 270 Wis. 2d 535, 678 N.W.2d 197. In imposing its sentences, the court considered the seriousness of the offenses, Molnar's character, and the need to protect the public. *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. Under the circumstances of the case, which were aggravated by Molnar's lengthy criminal record, the aggregate term imposed of six years of imprisonment does not "shock public sentiment and violate the judgment of reasonable people concerning what is right and proper." *Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). We agree with counsel that a challenge to Molnar's sentences would lack arguable merit.

As noted, Molnar filed two responses to counsel's no-merit report. The responses are difficult to decipher, as they are rambling and nonsensical. In any event, we are not persuaded that they present an issue of arguable merit.

Our independent review of the record does not disclose any potentially meritorious issue for appeal. Because we conclude that there would be no arguable merit to any issue that could be raised on appeal, we accept the no-merit report and relieve Attorney Faun M. Moses of further representation in these matters.

Upon the foregoing reasons,

IT IS ORDERED that the judgments of the circuit court are summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Faun M. Moses is relieved of further representation of Molnar in these matters.

Diane M. Fremgen
Clerk of Court of Appeals