



pleas to an amended Information charging robbery with threat of force and theft from person. The circuit court imposed a sentence of five years' initial incarceration and three years' extended supervision on the robbery offense, and one year initial incarceration and three months' extended supervision on the theft charge, consecutive to each other and concurrent to an existing sentence.

There is no arguable basis upon which Burton could withdraw his pleas. See *State v. Duychak*, 133 Wis. 2d 307, 312, 395 N.W.2d 795 (Ct. App. 1986). The court's colloquy, buttressed by the plea questionnaire and waiver of rights form, informed Burton of the constitutional rights he waived by pleading no contest, the elements of the offenses and the potential penalties. Burton was advised the court could impose the maximum penalties and was not bound by the parties' agreement. See *State v. Hampton*, 2004 WI 107, ¶2, 274 Wis. 2d 379, 683 N.W.2d 14. A proper factual basis supported the conviction. Burton's pleas were freely, voluntarily and intelligently entered. See *State v. Bangert*, 131 Wis. 2d 246, 260, 389 N.W.2d 12 (1986). Entry of a valid no contest plea constitutes a waiver of nonjurisdictional defects and defenses.<sup>1</sup> *Id.* at 265-66.

The record also discloses no basis for challenging the court's sentencing discretion. The court considered the proper factors, including Burton's character, the seriousness of the offenses and the need to protect the public. See *Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). The sentence imposed was far less than allowable by law and therefore presumptively neither harsh nor excessive. See *State v. Grindemann*, 2002 WI App 106, ¶32, 255 Wis. 2d 632, 648 N.W.2d 507.

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<sup>1</sup> The no-merit report indicates Burton claimed in a phone conversation with appellate counsel that trial counsel "promised that he would only get five years IC." Any such claim is belied by the plea questionnaire and Burton's statements on the record during two plea proceedings four days apart.

Our independent review of the record discloses no other issues of arguable merit. Therefore,

IT IS ORDERED that the judgment is summarily affirmed. *See* WIS. STAT. RULE 809.21 (2011-12).

IT IS FURTHER ORDERED that attorney Leonard Kachinsky is relieved of further representing Burton in this matter.

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*Diane M. Fremgen*  
*Clerk of Court of Appeals*