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**DISTRICT III**

February 19, 2013

To:

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

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2012AP2310-CRNM      State of Wisconsin v. Debra J. Laper (L.C. # 2008CF782,  
2012AP2311-CRNM      L.C. # 2009CF68)

Before Hoover, P.J., Mangerson, J., and Thomas Cane, Reserve Judge.

Counsel for Debra Laper has filed a no-merit report concluding there is no arguable basis for Laper to challenge the sentences imposed after revocation of her probation. Laper filed a response raising several issues. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude there is no arguable basis for appeal.

In 2009, the court withheld sentence and placed Laper on probation for bail jumping and identity theft.<sup>1</sup> Laper violated numerous conditions of her probation, including committing additional offenses, and her probation was revoked in November 2011. The court then imposed consecutive sentences totaling two and one-half years' initial confinement and three years' extended supervision.

Neither the underlying convictions nor the probation revocation is the subject of this appeal. The only issues that can be addressed relate to the sentences imposed following revocation of probation. *See State v. Tobey*, 250 Wis. 2d 781, 784, 548 N.W.2d 951 (Ct. App. 1996). In her response to the no-merit report, Laper challenges a statement in the revocation summary that she was prohibited from having contact with her husband, an accomplice in several of her offenses. She also raises issues about suppression of evidence based on an illegal stop and detention. Neither of those issues can be raised in these appeals. Any challenge to the underlying conviction had to be commenced by filing a notice of intent to pursue postconviction relief within twenty days of the 2009 sentences. *See WIS. STAT. RULE 809.30(2)(b)* (2011-12).<sup>2</sup> A challenge to the probation revocation could only be accomplished by commencing a certiorari action, not by appealing the sentence imposed after revocation. *State ex rel. Johnson v. Cady*, 50 Wis. 2d 540, 550, 185 N.W.2d 306 (1971).

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<sup>1</sup> The court also placed Laper on one year probation for misdemeanor theft, with six months in jail as a condition of probation. Because that term of probation was completed, that offense is not the subject of these appeals.

<sup>2</sup> All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

The record discloses no arguable basis for challenging the sentencing court's discretion. The court could have imposed consecutive sentences totaling twelve years' imprisonment and fines totaling \$20,000. The court appropriately considered the seriousness of the offenses, Laper's character including her substantial criminal history, and the need to protect the public. *See State v. Harris*, 119 Wis. 2d 612, 623, 350 N.W.2d 633 (1984). The court considered no improper factors and the sentences are not arguably so excessive as to shock public sentiment. *See Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975).

In her response to the no-merit report, Laper complains that the court was not fully informed about the OARS program, a rehabilitative program she had begun while awaiting sentencing. She complains that the court did not consider the effect of taking her out of the program. However, at the sentencing hearing, Laper and her counsel spent substantial time informing the court of her progress in the program. The fact that the court was not persuaded by their arguments does not create a basis for appeal. The weight to be afforded mitigating factors is a matter within the circuit court's discretion. *Cunningham v. State*, 76 Wis. 2d 277, 282, 251 N.W.2d 65 (1977).

Our independent review of the record discloses no other potential issue for appeal. Therefore,

IT IS ORDERED that the judgments are summarily affirmed. WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that attorney Susan Alesia is relieved of her obligation to further represent Laper in these matters. WIS. STAT. RULE 809.32(3).

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