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**DISTRICT IV/III**

March 26, 2013

To:

Hon. Stephen E. Ehlke  
Circuit Court Judge  
215 South Hamilton, Br.15, Rm. 7107  
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You are hereby notified that the Court has entered the following opinion and order:

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2012AP2585-CRNM      State of Wisconsin v. Jordan R. Hawkins (L.C. #2010CF1451)

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

Counsel for Jordan Hawkins has filed a no-merit report concluding there is no basis to challenge Hawkins's conviction for third-degree sexual assault. Hawkins was advised of his right to respond and has not responded. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude there is no arguable merit to any issue that could be raised and summarily affirm.

Hawkins was charged with sexually assaulting a thirteen-year-old girl. A criminal complaint alleged sexual assault of a child under the age of sixteen, and obstructing an officer,

both as repeaters. As part of a global resolution of this case with a companion case,<sup>1</sup> Hawkins pled guilty to a reduced charge of third-degree sexual assault,<sup>2</sup> and the repeater enhancement was dismissed. The obstruction charge as a repeater was also dismissed and read in. Pursuant to a joint recommendation, the circuit court imposed a sentence consisting of five years' initial confinement and five years' extended supervision.

There is no arguable basis upon which Hawkins could withdraw his guilty plea. *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 Hawkins of the constitutional rights he waived by pleading guilty, and confirmed his understanding of the elements of the offense and the potential penalty. The court specifically advised Hawkins that it could impose the maximum penalty and was not bound by the parties' agreement. A proper factual basis supported the conviction. Hawkins's plea was freely, voluntarily and intelligently entered. *See State v. Bangert*, 131 Wis. 2d 246, 260, 389 N.W.2d 12 (1986). Entry of a valid guilty or no contest plea constitutes a waiver of non-jurisdictional defects and defenses. *Id.* at 265-66.

The record also discloses no basis for challenging the court's sentencing discretion. A defendant may not challenge a sentence based upon a joint recommendation that he has

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<sup>1</sup> In the companion case, Hawkins pled no contest to burglary and operating a motor vehicle without the owner's consent, and repeater allegations were dismissed. Charges of theft and criminal damage to property were also dismissed and read in. The no-merit report states that Hawkins did not object to closing out his file in that case. The present appeal involves only the third-degree sexual assault conviction.

<sup>2</sup> The reduced charge resulted in Hawkins facing a maximum sentence of ten years instead of forty-six years.

affirmatively approved. *See State v. Scherreiks*, 153 Wis. 2d 510, 518, 451 N.W.2d 759 (Ct. App. 1989). In any event, the court considered the proper factors and the sentence was not harsh or excessive. *See Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). The court emphasized the extremely serious nature of the offense and noted Hawkins's excessive criminal history.

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 David Karpe is relieved of further representing Hawkins in this matter.

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