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**DISTRICT III/II**

April 24, 2013

To:

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

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2013AP8-CRNM

State of Wisconsin v. Joshua R. Loll (L.C. #2012CF25)

Before Brown, C.J., Gundrum and Reilly, JJ.

Joshua Loll appeals from a judgment of conviction for burglary. His appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2011-12),<sup>1</sup> and *Anders v. California*, 386 U.S. 738 (1967). Loll received a copy of the report, was advised of his right to file a response, and has elected not to do so. Upon consideration of the report and an independent review of the record, we conclude that the judgment may be summarily affirmed

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

because there is no arguable merit to any issue that could be raised on appeal. *See* WIS. STAT. RULE 809.21.

Loll worked at his uncle's photography shop and was charged with four crimes relating to nighttime thefts of cash from the shop's safe.<sup>2</sup> Loll entered a no-contest plea to burglary and the three other charges were dismissed as read-ins at sentencing. The prosecutor's sentencing recommendation was consistent with the plea agreement and the prosecutor recommended a seven-year sentence consisting of four years' initial confinement and three years' extended supervision. Loll was sentenced to four years' initial confinement and five years' extended supervision.

The no-merit report addresses the potential issues of whether Loll's plea was freely, voluntarily and knowingly entered, and whether the sentence was the result of an erroneous exercise of discretion. Our review of the record persuades us that no issue of arguable merit could arise from either point. The trial court engaged in an appropriate plea colloquy and made the necessary advisements and findings required by 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, ¶¶38, 274 Wis. 2d 379, 683 N.W.2d 14. It also addressed the read-in offenses with Loll.

At sentencing, the court identified the need to address Loll's heroin addiction by treatment and incarceration. The court explained that probation would depreciate the seriousness of the offense of stealing from a family member and breaching family trust. The sentence was a demonstrably proper exercise of discretion. *See State v. Gallion*, 2004 WI 42, ¶¶40-43, 270

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<sup>2</sup> Loll was charged with misdemeanor theft, two counts of burglary, and bail jumping.

Wis. 2d 535, 678 N.W.2d 197. Further, we cannot conclude that the sentence, when measured against the maximum sentence, is so excessive or unusual so as to shock public sentiment. *See Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975).

Any other possible appellate issues are waived because the defendant's no-contest plea waived the right to raise nonjurisdictional defects and defenses, including claimed violations of constitutional rights. *State v. Lasky*, 2002 WI App 126, ¶11, 254 Wis. 2d 789, 646 N.W.2d 53. Accordingly, this court accepts the no-merit report, affirms the conviction and discharges appellate counsel of the obligation to represent Loll further in this appeal.

Upon the foregoing reasons,

IT IS ORDERED that the judgment of conviction is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Leonard D. Kachinsky is relieved from further representing Joshua Loll in this appeal. *See* WIS. STAT. RULE 809.32(3).

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