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DISTRICT III

May 29, 2013

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

2013AP10-CRNM State of Wisconsin v. Jeremy R. Stater (L. C. # 2011CF79)

Before Hoover, P.J., Mangerson and Stark, JJ.

Counsel for Jeremy Stater has filed a no-merit report concluding there is no arguable basis for Stater to withdraw his no contest pleas or challenge the sentences imposed for aggravated battery and second-degree reckless endangerment. Stater was advised of his right to respond to the report 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 basis for appeal.

Stater was initially charged with armed robbery, aggravated battery with intent to cause great bodily harm and first-degree reckless endangerment. The complaint alleged that Stater struck the victim, stabbed him in the neck causing a nine-centimeter laceration and stole the victim's shirt. Pursuant to a plea agreement, the State dropped the armed robbery charge, reduced the reckless endangerment to second-degree, and agreed to recommend seven years' initial confinement and nine years' extended supervision. In return, Stater entered no contest pleas to the amended charges. The court imposed consecutive sentences totaling ten years' initial confinement and ten years' extended supervision.

The record discloses no arguable manifest injustice upon which Stater could withdraw his no contest pleas. See *State v. Duychak*, 133 Wis. 2d 307, 312, 395 N.W.2d 795 (Ct. App. 1986). The court's colloquy, supplemented by a plea questionnaire and waiver of rights form, established that the no contest pleas were freely, voluntarily and intelligently entered. Stater confirmed that his diagnosed depression and the medication he took did not impair his ability to understand the proceedings. He stated no inappropriate promises or threats were made to induce his pleas. The court recited the elements of both offenses and the potential penalties, and Stater confirmed that he understood the constitutional rights he waived by pleading no contest. As required by *State v. Hampton*, 2004 WI 117, ¶2, 274 Wis. 2d 379, 683 N.W.2d 14, the court informed Stater that it was not bound by the parties' sentence recommendations. Without objection, the court considered the criminal complaint as a factual basis for the pleas. The court did not give Stater the deportation notice required by WIS. STAT. § 971.08(1)(c) (2011-12).¹ However, that error was harmless because Stater is a United States citizen. The court otherwise

¹ All references to the Wisconsin Statutes are to the 2011-12 version.

followed the requirements for accepting a no contest plea set out in *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 760 N.W.2d 906. Entry of a valid no contest plea constitutes a waiver of all nonjurisdictional defects and defenses. *State v. Bangert*, 131 Wis. 2d 246, 293, 389 N.W.2d 12 (1986).

The record also discloses no arguable basis for challenging the sentences. The court could have imposed consecutive sentences totaling twenty-five years' imprisonment and fines totaling \$75,000. The court appropriately considered the seriousness of the offenses, the effect on the victim, Stater's character, the fact that he had absconded from Indiana and was on parole when he committed these offenses, his previous incarcerations 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).

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

IT IS ORDERED that the judgment is summarily affirmed. WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that attorney Erica Bauer is relieved of her obligation to further represent Stater in this matter. WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals