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April 12, 2016

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

2014AP2923-CRNM State of Wisconsin v. Paula M. Ninham (L. C. #2013CF1433)

Before Stark, P.J., Hruz and Seidl, JJ.

Counsel for Paula Ninham has filed a no-merit report concluding no grounds exist to challenge Ninham's conviction for felony bail jumping.¹ Ninham was informed of her right to file a response to the no-merit 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

¹ The no-merit report was filed by attorney Eileen A. Hirsch, who has been replaced by attorney Joseph N. Ehmann as Ninham's appellate counsel.

arguable merit to any issue that could be raised on appeal. Therefore, we summarily affirm the judgment of conviction. *See* WIS. STAT. RULE 809.21 (2013-14).²

The State charged Ninham with felony bail jumping, alleging she had violated the terms of her bond in Brown County Circuit Court case No. 2013CF1099 by drinking alcohol. In No. 2013CF1099, the State charged Ninham with third-offense operating while intoxicated (OWI), and felony possession of THC. Pursuant to a plea agreement, Ninham pleaded no contest to the felony bail jumping charge in this case and a reduced charge of misdemeanor marijuana possession, along with the OWI, third offense, in the other case.³ Out of a maximum possible six-year sentence for felony bail jumping, the circuit court withheld a sentence and imposed two years' probation with sixty days in jail as a condition.

The record discloses no arguable basis for withdrawing Ninham's no contest plea. The circuit court's plea colloquy, as supplemented by a plea questionnaire and waiver of rights form that Ninham completed, informed Ninham of the elements of the offense, the penalties that could be imposed, and the constitutional rights she waived by entering a no contest plea. The court confirmed Ninham's understanding that it was not bound by the terms of the plea agreement, *see State v. Hampton*, 2004 WI 107, ¶2, 274 Wis. 2d 379, 683 N.W.2d 14, and also advised Ninham of the deportation consequences of her plea, as mandated by WIS. STAT. § 971.08(1)(c). Additionally, the court found that a sufficient factual basis existed in the criminal complaint to

² All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

³ Although the instant case was resolved by a plea and sentence in conjunction with case No. 2013CF1099, the no-merit report recounts that Ninham opted not to file a notice of appeal or notice of no-merit appeal in No. 2013CF1099. This appeal is therefore limited to reviewing the judgment of conviction in case No. 2013CF1433.

support the conclusion that Ninham committed the crime charged. The record shows the plea was knowingly, voluntarily, and intelligently made. *See State v. Bangert*, 131 Wis. 2d 246, 257, 389 N.W.2d 12 (1986).

The record discloses no arguable basis for challenging the sentence imposed. Before imposing a sentence authorized by law, the circuit court considered the seriousness of the offense, Ninham's character, the need to protect the public, and the mitigating factors Ninham raised. *See State v. Gallion*, 2004 WI 42, ¶¶39-46, 270 Wis. 2d 535, 678 N.W.2d 197. Under these circumstances, it cannot reasonably be argued that Ninham's sentence is 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 pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that attorney Joseph N. Ehmann is relieved of further representing Ninham in this matter. *See WIS. STAT. RULE 809.32(3)*.

Diane M. Fremgen
Clerk of Court of Appeals