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DISTRICT III

September 20, 2016

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

2015AP1364-CRNM State v. Jesse Williams (L. C. No. 2012CF932)

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

Counsel for Jesse Williams has filed a no-merit report concluding there is no basis to challenge Williams' conviction for battery or threat to a judge and an order denying postconviction relief. Williams 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 on appeal and summarily affirm.

Williams sent a letter to Judge Dee Dyer stating, "I'm going to kill you and your family for what you did." The letter was signed by Williams and his handwriting was confirmed. The complaint established that less than nine months earlier Williams was convicted of battery or threat to another judge.

Williams entered a no-contest plea to battery or threat to a judge, and the State agreed to recommend dismissal of a repeater provision. The State also agreed to recommend one year of initial confinement and three years' extended supervision consecutive to any other sentence Williams was serving. The circuit court imposed a sentence consistent with the State's recommendation.

There is no manifest injustice upon which Williams could withdraw his plea. *See* ***State v. Duychak***, 133 Wis. 2d 307, 312, 395 N.W.2d 795 (Ct. App. 1986). The circuit court's colloquy, buttressed by the plea questionnaire and waiver of rights form, informed Williams of the constitutional rights he waived, the elements of the offense, and the potential penalties. Although the court explained the maximum penalties, it failed to explain that it was not bound by the parties' agreement. *See* ***State v. Hampton***, 2004 WI 107, ¶20, 274 Wis. 2d 379, 683 N.W.2d 14. This does not provide grounds for relief because the court did, in fact, follow the agreed upon recommendation from the State. *See* ***State v. Johnson***, 2012 WI App 21, ¶14, 339 Wis. 2d 421, 811 N.W.2d 441. The court advised Williams of the potential deportation consequences of his pleas as outlined in WIS. STAT. § 971.08(1)(c) (2013-14). An adequate factual basis supported the conviction. The record shows the plea was knowingly, intelligently and

voluntarily entered. *See* ***State v. Bangert***, 1313 Wis. 2d 246, 260, 389 N.W.2d 12 (1986). Entry of a valid guilty or no contest plea constitutes a waiver of nonjurisdictional defenses and defects. ***Id.*** at 265-66.

The record also discloses no basis for challenging the circuit court's sentencing discretion. The court considered the proper factors, including Williams' character, the seriousness of the offense, and the need to protect the public. The sentence imposed was far less than the maximum allowable by law and therefore neither overly harsh nor excessive. *See* ***State v. Grindemann***, 2002 WI App 106, ¶¶29-33, 255 Wis. 2d 632, 648 N.W.2d 507. There is also no arguable merit to any issue regarding Williams' postconviction motion for sentence modification.

Our independent review of the record discloses no other issues of arguable merit.

Therefore,

IT IS ORDERED the judgment and order are affirmed. WIS. STAT. RULE 809.21 (2013-14).

IT IS FURTHER ORDERED that attorney Katie York is relieved of further representing Williams in this matter.

Diane M. Fremgen
Clerk of Court of Appeals