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DISTRICT III

December 20, 2016

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

2016AP105-CRNM State of Wisconsin v. Anthony G. Steen (L. C. No. 2014CF962)

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

Counsel for Anthony G. Steen has filed a no-merit report concluding there is no basis to challenge Steen's conviction for attempted child enticement—sexual contact, in violation of WIS. STAT. § 948.07(1).¹ Steen has responded. Upon our independent review of the record, we conclude no issue of arguable merit appears, and the judgment is summarily affirmed. *See* WIS. STAT. RULE 809.21.

¹ Citation to the Wisconsin Statutes is to the 2013-14 version unless otherwise noted.

According to the criminal complaint, Steen believed he was communicating online with a fifteen-year-old girl. Sexually explicit conversations led to an arranged meeting. Steen was arrested at the meeting place as part of an undercover operation. Steen pled guilty to attempted child enticement, and three other charges were dismissed and read in. The circuit court imposed a sentence consisting of five years' initial confinement and ten years' extended supervision.

There is no manifest injustice upon which Steen 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 plea colloquy, together with the plea questionnaire and waiver of rights form that Steen signed, with attachments, informed Steen of the constitutional rights he waived by pleading guilty, the elements of the offense, and the potential punishment. The court specifically advised Steen it was not bound by the parties' agreement and could impose the maximum penalty. The court also advised Steen of the deportation consequences of his plea, as mandated by WIS. STAT. § 971.08(1)(c). Steen conceded the probable cause portion of the complaint provided a sufficient factual basis supporting the conviction. The record shows the plea was knowingly, voluntarily and intelligently entered. *See State v Bangert*, 131 Wis. 2d 246, 260, 389 N.W.2d 12 (1986).

The record also discloses no basis for challenging the circuit court's sentencing discretion. The court considered the proper factors, including Steen's character, the seriousness of the offense, and the need to protect the public. *See State v. Harris*, 119 Wis. 2d 612, 623, 350 N.W.2d 633 (1984). The court stated the egregiousness of the crime spoke for itself, but it also found a forty-year-old attempting to engage in illicit behavior with a fifteen-year-old "strikes a chord in my mind of being sexual deviance, not just merely a crime." The court noted Steen's criminal history and drug issues, and found "you're dangerous" and "I will find you to be a danger to the public." Indeed, Steen admits in the response to the no-merit report that he was

“on meth at the time this occurred and was up for 2 weeks” The court found Steen’s drug use “certainly hinders you in making good decisions; and I think, also, it became a modus operandi for you. I think the drug use was, from my reading, part of the enticement that you intended to use.” In his response to the no-merit report, Steen suggests his sentence was excessive, but the sentence was far less than the twenty-five years’ allowable by law and was neither overly harsh nor excessive. *See State v. Grindemann*, 2002 WI App 106, ¶¶29-33, 255 Wis. 2d 632, 648 N.W.2d 507.

Steen also argues in his response to the no-merit report that he feels he was entrapped. However, entry of a valid guilty or no-contest plea constitutes a waiver of nonjurisdictional defenses and defects. *See Bangert*, 131 Wis. 2d at 265-66.

This court’s independent review of the record discloses no other potential issues for appeal. Therefore,

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

IT IS FURTHER ORDERED that attorney Susan Alesia is relieved of further representing Anthony Steen in this matter. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals