



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT IV

September 17, 2018

To:

Hon. Randy R. Koschnick
Circuit Court Judge
Jefferson County Courthouse
311 S. Center Ave.
Jefferson, WI 53549

Carla Robinson
Clerk of Circuit Court
Jefferson County Courthouse
311 S. Center Ave., Rm. 115
Jefferson, WI 53549

Andrew Hinkel
Assistant State Public Defender
P.O. Box 7862
Madison, WI 53707-7862

Brookellen Teuber
Assistant District Attorney
311 S. Center Ave., Rm. 225
Jefferson, WI 53549-1718

Criminal Appeals Unit
Department of Justice
P.O. Box 7857
Madison, WI 53707-7857

Matthew D. Vanhammond 460968
Fox Lake Corr. Inst.
P.O. Box 200
Fox Lake, WI 53933-0200

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

2017AP1264-CRNM	State of Wisconsin v. Matthew D. Vanhammond (L.C. # 2016CF40)
2017AP1265-CRNM	State of Wisconsin v. Matthew D. Vanhammond (L.C. # 2016CF72)
2017AP1266-CRNM	State of Wisconsin v. Matthew D. Vanhammond (L.C. # 2016CF244)

Before Sherman, Blanchard, and Kloppenburg, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Attorney Tristan Breedlove, appointed counsel for Matthew Vanhammond, filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2015-16)¹ and *Anders v. California*, 386 U.S. 738, 744 (1967). The no-merit report addresses whether there would be arguable merit to a challenge to Vanhammond's plea or sentencing. Attorney Andrew Hinkel has substituted as appointed counsel. Vanhammond was sent a copy of the report, but has not filed a response. Upon independently reviewing the entire record, as well as the no-merit report, we agree with counsel's assessment that there are no arguably meritorious appellate issues. Accordingly, we affirm.

On February 1, 2016, Vanhammond was charged with burglary. On February 16, 2016, Vanhammond was charged in a second case with three counts of burglary, one count of attempted burglary, three counts of theft, three counts of criminal damage to property, and six counts of bail jumping. On June 16, 2016, Vanhammond was charged in a third case with two counts of burglary, two counts of criminal damage to property, and three counts of theft. Pursuant to a plea agreement, Vanhammond pleaded no-contest to five counts of burglary and one count of misdemeanor theft, and the remaining charges in these cases and several other cases were dismissed. The dismissed charges and numerous uncharged offenses were read-in for sentencing purposes. The court imposed a total sentence of ten years of initial confinement and eight years of extended supervision.

First, the no-merit report addresses whether there would be arguable merit to a challenge to Vanhammond's plea. A post-sentencing motion for plea withdrawal must establish that plea

¹ All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

withdrawal is necessary to correct a manifest injustice, such as a plea that was not knowing, intelligent, and voluntary. *State v. Brown*, 2006 WI 100, ¶18, 293 Wis. 2d 594, 716 N.W.2d 906. Here, the circuit court conducted a plea colloquy that, together with the plea questionnaire that Vanhammond signed, satisfied the court’s mandatory duties to personally address Vanhammond and determine information such as Vanhammond’s understanding of the nature of the charges and the range of punishments he faced, the constitutional rights he waived by entering a plea, and the direct consequences of the plea. *See State v. Hoppe*, 2009 WI 41, ¶¶18, 30, 317 Wis. 2d 161, 765 N.W.2d 794. There is no indication of any other basis for plea withdrawal. Accordingly, we agree with counsel’s assessment that a challenge to Vanhammond’s plea would lack arguable merit.

Next, the no-merit report addresses whether there would be arguable merit to a challenge to Vanhammond’s sentence. We agree with counsel’s assessment that this issue lacks arguable merit. Our review of a sentence determination begins “with the presumption that the trial court acted reasonably, and the defendant must show some unreasonable or unjustifiable basis in the record for the sentence complained of.” *State v. Krueger*, 119 Wis. 2d 327, 336, 351 N.W.2d 738 (Ct. App. 1984). Here, the court afforded Vanhammond the opportunity to address the court before the court made its sentencing decision. The court explained that it considered facts pertinent to the standard sentencing factors and objectives, including the seriousness of the offenses, Vanhammond’s character, and the need to protect the public. *See State v. Gallion*, 2004 WI 42, ¶¶39-46 & n.11, 270 Wis. 2d 535, 678 N.W.2d 197. There would be no arguable merit to a claim that the sentence was unduly harsh or excessive given the facts of this case. *See State v. Stenzel*, 2004 WI App 181, ¶21, 276 Wis. 2d 224, 688 N.W.2d 20 (a sentence is unduly

harsh or excessive ““only where the sentence is so excessive and unusual and so disproportionate to the offense committed as to shock public sentiment and violate the judgment of reasonable people concerning what is right and proper under the circumstances”” (quoted source omitted)). We discern no basis to challenge the court’s sentencing decision.

Upon our independent review of the record, we have found no other arguable basis for reversing the judgments of conviction. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

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

IT IS FURTHER ORDERED that Attorney Andrew Hinkel is relieved of any further representation of Matthew Vanhammond in this matter. *See* WIS. STAT. RULE 809.32(3).

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Sheila T. Reiff
Clerk of Court of Appeals