

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

August 7, 1996

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 95-3182-CR-NM

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT II**

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

JOSE SALAZAR,

Defendant-Appellant.

APPEAL from a judgment and an order of the circuit court for Kenosha County: DAVID M. BASTIANELLI, Judge. *Affirmed.*

Before Anderson, P.J., Brown and Nettesheim, JJ.

PER CURIAM. Counsel for Jose Salazar has filed a no merit report pursuant to RULE 809.32, STATS. Salazar has filed a response in which he appears to allege that he was led to believe that the maximum sentence was two years and that his interpreter did not read him the jury instructions that were attached to the plea advisement and waiver form. Another person also filed a response on Salazar's behalf. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude that there is no arguable merit to any issue that could be raised on appeal.

Pursuant to a plea agreement, Salazar pled guilty to three counts of delivering cocaine to an undercover officer. The State dismissed, but read in, two additional counts. The court sentenced Salazar to consecutive prison terms totaling twenty years.

The no merit report addresses the validity of the guilty pleas, the propriety of Salazar's sentence and the effectiveness of his trial counsel. We concur with counsel's analysis of these issues. Throughout the proceedings, Salazar was provided with an interpreter. He executed a plea advisement and waiver form that notified him, in Spanish, that the maximum period of incarceration for the three offenses was thirty years. Jury instructions listing the elements of the offense were attached to the form. Although the jury instructions were written in English, the elements were initialed by Teresa Chavez who served as an interpreter for Salazar. In addition, the court stated the elements at the plea hearing and advised Salazar through an interpreter that he faced a possible penalty of thirty years in prison and a \$1,500,000 fine. In an extensive colloquy, the trial court satisfied all of the requirements for accepting a guilty plea set out in *State v. Bangert*, 131 Wis.2d 246, 267-69, 389 N.W.2d 12, 26-27 (1986). The record establishes no basis for challenging the validity of the guilty pleas. A valid guilty plea constitutes a waiver of all nonjurisdictional defects and defenses including claims of constitutional error. See *State v. Aniton*, 183 Wis.2d 125, 129, 515 N.W.2d 302, 303 (Ct. App. 1994).

The record also establishes no basis for challenging the exercise of the trial court's sentencing discretion. The trial court is presumed to have acted properly in sentencing and Salazar has the burden to prove otherwise. *State v. Krueger*, 119 Wis.2d 327, 336, 351 N.W.2d 738, 743 (Ct. App. 1984). The trial court considered the need to protect the community and the collateral crimes associated with drug problems. The court commented on Salazar's status as an illegal alien, but only in relation to the lack of evidence regarding his background, the ineffectiveness of deportation as a penalty, and the fact that Salazar committed these crimes almost immediately upon arriving in Wisconsin. The court did not consider any improper factors and the twenty-year sentence is not so excessive as to shock public sentiment. See *Ocanas v. State*, 70 Wis.2d 179, 185, 233 N.W.2d 457, 461 (1975).

Salazar's response suggests dissatisfaction with his trial counsel's performance. Our independent review of the record discloses no basis for

challenging counsel's performance and Salazar's conclusory allegations are not sufficient. See *State v. Washington*, 176 Wis.2d 205, 215-16, 500 N.W.2d 331, 336 (Ct. App. 1993).

Our independent review of the record discloses no other potential issues for appeal. Therefore, we affirm the judgment of conviction and the order denying postconviction relief and relieve Attorney Blanca Ramirez of further representing Salazar in this matter.

By the Court. — Judgment and order affirmed.