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**DISTRICT IV**

March 23, 2015

To:

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Dodge Co. Justice Facility  
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You are hereby notified that the Court has entered the following opinion and order:

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2013AP2794-CRNM      State of Wisconsin v. Jesus A. Padilla (L.C. # 2012CF172)

Before Blanchard, P.J., Higginbotham and Kloppenburg, JJ.

Attorney Ellen Krahn, appointed counsel for Jesus Padilla, has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32; *Anders v. California*, 386 U.S. 738, 744 (1967). The no-merit report addresses whether there would be arguable merit to a challenge to Padilla's plea or sentence. Padilla 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.

In May 2012, Padilla was charged with one count of repeated sexual assault of the same child, as a repeater. In December 2012, pursuant to a plea agreement, Padilla pled no contest to a newly added charge of first-degree sexual assault of a child under the age of sixteen with the use or threat of force, as a repeater, and the original charge was dismissed and read-in for sentencing purposes. The State argued for thirty-five years of initial confinement and twenty years of extended supervision consistent with the recommendation in the presentence investigation report. Defense counsel argued for fifteen years of initial confinement and the maximum period of extended supervision. The court sentenced Padilla to twenty-five years of initial confinement and fifteen years of extended supervision.

First, the no-merit report addresses whether there would be arguable merit to a challenge to the validity of Padilla's plea. A post-sentencing motion for plea withdrawal must establish that plea 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 satisfied the court's mandatory duties to personally address Padilla and determine information such as Padilla's understanding of the nature of the charge 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, 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 Padilla's plea would lack arguable merit.

Next, the no-merit report addresses whether there would be arguable merit to a challenge to Padilla's sentence. A challenge to a circuit court's exercise of its sentencing discretion must overcome our presumption that the sentence was reasonable. *State v. Ramuta*, 2003 WI App 80,

¶23, 261 Wis. 2d 784, 661 N.W.2d 483. Here, the court explained that it considered the facts relevant to the standard sentencing factors and objectives, including the need to protect the public, Padilla's character and criminal history, and the gravity of the offense. *See State v. Gallion*, 2004 WI 42, ¶¶17-51, 270 Wis. 2d 535, 678 N.W.2d 197. The sentence was within the applicable penalty range. The sentence was also well within the maximum Padilla faced, and therefore was not so excessive or unduly harsh as to shock the conscience. *State v. Grindemann*, 2002 WI App 106, ¶31, 255 Wis. 2d 632, 648 N.W.2d 507. We discern no erroneous exercise of the court's sentencing discretion.

Upon our independent review of the record, we have found no other arguable basis for reversing the judgment 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 judgment of conviction is summarily affirmed. *See* WIS. STAT. RULE 809.21.

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

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*Diane M. Fremgen*  
*Clerk of Court of Appeals*