



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 II

April 1, 2015

To:

Hon. Timothy D. Boyle
Circuit Court Judge
Racine County Courthouse
730 Wisconsin Avenue
Racine, WI 53403

Rose Lee
Clerk of Circuit Court
Racine County Courthouse
730 Wisconsin Avenue
Racine, WI 53403

W. Richard Chiapete
District Attorney
730 Wisconsin Avenue
Racine, WI 53403

Angela Conrad Kachelski
Kachelski Law Office
7101 N. Green Bay Ave., Ste 6A
Milwaukee, WI 53209

Gregory M. Weber
Assistant Attorney General
P.O. Box 7857
Madison, WI 53707-7857

Glenn E. Conroy Jr. 447096
Supervised Living Facility
317 Dodge St.
Burlington, WI 53105

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

2014AP2516-CRNM State of Wisconsin v. Glenn E. Conroy, Jr. (L.C. # 2012CF400)

Before Brown, C.J., Neubauer, P.J., and Reilly, J.

Glenn E. Conroy appeals a judgment convicting him of second-degree reckless injury as a party to a crime and as a repeater. Conroy's appellate counsel filed a no-merit report pursuant to Wis. Stat. Rule 809.32 (2013-14)¹ and *Anders v. California*, 386 U.S. 738 (1967). Conroy received a copy of the report, was advised of his right to file a response, and has elected not to do

¹ All references to the Wisconsin Statutes are to the 2013-14 version.

so. After reviewing the record and counsel's report, we conclude that there are no issues with arguable merit for appeal. Therefore, we summarily affirm the judgment. RULE 809.21.

On April 2, 2012, the State filed a complaint against Conroy for his actions of pushing a sixteen-year-old girl out of a car window while another person was driving the car. Conroy pled no contest to second-degree reckless injury as a party to a crime and as a repeater. The circuit court sentenced him to four years of initial confinement and five years of extended supervision. This no-merit appeal followed.

The no-merit report first addresses whether Conroy's no contest plea was knowingly, voluntarily, and intelligently entered. The record shows that the circuit court engaged in a colloquy with Conroy that satisfied the applicable requirements of WIS. STAT. § 971.08(1)(a) and *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906. In addition, a signed plea questionnaire and waiver of rights form was entered into the record. That form and attached jury instruction are competent evidence of a valid plea. See *State v. Moederndorfer*, 141 Wis. 2d 823, 827-29, 416 N.W.2d 627 (Ct. App. 1987). We agree with counsel that any challenge to the entry of Conroy's no contest plea would lack arguable merit.

The no-merit report also addresses whether the circuit court properly exercised its discretion at sentencing. The record reveals that the circuit court's decision had a "rational and explainable basis." *State v. Gallion*, 2004 WI 42, ¶76, 270 Wis. 2d 535, 678 N.W.2d 197 (citation omitted). In imposing an aggregate sentence of nine years of imprisonment, the court considered the seriousness of the offense, Conroy's character, and the need to protect the public. *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. Under the circumstances of the case, which were aggravated by Conroy's prior criminal record, the

sentence does not “shock public sentiment and violate the judgment of reasonable people concerning what is right and proper.” *Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). Accordingly, we agree with counsel that a challenge to the circuit court’s decision at sentencing would lack arguable merit.²

Our independent review of the record does not disclose any potentially meritorious issue for appeal.³ Because we conclude that there would be no arguable merit to any issue that could be raised on appeal, we accept the no-merit report and relieve Attorney Angela C. Kachelski of further representation in this matter.

Upon the foregoing reasons,

IT IS ORDERED that the judgment of the circuit court is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Angela C. Kachelski is relieved of further representation of Conroy in this matter.

Diane M. Fremgen
Clerk of Court of Appeals

² In reviewing Conroy’s sentence, we note that the circuit court erroneously found him to be eligible for both the Challenge Incarceration Program and the Substance Abuse Program. Conroy cannot participate in those programs because he was convicted of a crime under Chapter 940. *See* WIS. STAT. §§ 302.045(2)(c) and 302.05(3)(a)1. This error does not present a potentially meritorious issue for appeal because the circuit court did not rely on Conroy’s eligibility for those programs in fashioning its sentence. Nevertheless, it would be appropriate for the circuit court to order an amended judgment of conviction clarifying the matter.

³ Prior to entering his no contest plea, counsel for Conroy requested a competency evaluation. The court appointed two experts, who both opined that Conroy was competent to proceed. Given their findings, we conclude that a challenge to Conroy’s competency does not present a potentially meritorious issue for appeal.