



with arguable merit for appeal. Therefore, we summarily affirm the judgment. WIS. STAT. RULE 809.21.

Castillo-Puac entered an *Alford*<sup>2</sup> plea to one count of attempted second-degree sexual assault of a child. The charge stemmed from a March 2011 incident involving an eight-year-old girl. According to the complaint, Castillo-Puac kissed the girl, squeezed her chest, and pressed his penis against her vaginal area.

Prior to sentencing, Castillo-Puac moved to withdraw his *Alford* plea. Following a hearing on the matter, the circuit court denied the motion. It subsequently sentenced Castillo-Puac to six years of initial confinement and six years of extended supervision. This no-merit appeal follows.

The no-merit report addresses the following appellate issues: (1) whether Castillo-Puac's *Alford* plea was knowingly, intelligently, and voluntarily entered; (2) whether the circuit court erred in denying his motion to withdraw his plea; (3) whether the circuit court erroneously exercised its discretion at sentencing; (4) whether a new factor exists supporting sentence modification; and (5) whether trial counsel was ineffective.<sup>3</sup>

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<sup>2</sup> See *North Carolina v. Alford*, 400 U.S. 25 (1970).

<sup>3</sup> The no-merit report also addresses whether the circuit court properly decided various pretrial motions (e.g., motion to introduce other acts evidence, motion to introduce prior sexual conduct of the victim, motion to subject the victim to psychological examination, etc.). Castillo-Puac forfeited the right to challenge such rulings by virtue of his *Alford* plea. See *State v. Kelty*, 2006 WI 101, ¶18 & n.11, 294 Wis.2d 62, 716 N.W.2d 886 (a plea forfeits all nonjurisdictional defects). Accordingly, we do not discuss them further.

With respect to the entry of the *Alford* plea, the record shows that the circuit court engaged in a colloquy with Castillo-Puac 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.<sup>4</sup> Finally, the court explained the effect of the *Alford* plea, and there was strong evidence of guilt to support it from the stipulated facts in the complaint. We agree with counsel that any challenge to the entry of Castillo-Puac’s *Alford* plea would lack arguable merit.

With respect to the motion to withdraw the *Alford* plea, the record demonstrates that the circuit court properly denied it. The decision to grant or deny such a motion rests within the sound discretion of the circuit court. *State v. Jenkins*, 2007 WI 96, ¶29, 303 Wis. 2d 157, 736 N.W.2d 24. Here, Castillo-Puac complained that he felt “pressured” by trial counsel to take the plea.<sup>5</sup> The circuit court heard testimony from both trial counsel and Castillo-Puac. It also reviewed the transcript of the plea hearing. Ultimately, the court found no support for Castillo-Puac’s complaint and likened it to a case of “buyer’s remorse,” which does not support plea withdrawal. The record supports the court’s determination. Accordingly, we agree with counsel that a challenge to the court’s decision denying the motion to withdraw would lack arguable merit.

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<sup>4</sup> Because Castillo-Puac is primarily Spanish speaking, the form was in Spanish. A certified court interpreter also went over the form with Castillo-Puac and assisted in translating the circuit court’s colloquy. According to the no-merit report, Castillo-Puac has not indicated that he did not understand some aspect of his plea.

<sup>5</sup> Castillo-Puac subsequently obtained new counsel after filing the motion to withdraw his plea.

With respect to the sentence imposed, 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. In imposing a sentence of twelve years of imprisonment, the court considered the seriousness of the offense, Castillo-Puac'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, the sentence, which was well within the maximum possible penalty, 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.<sup>6</sup>

With respect to whether a basis exists for a motion for sentence modification, the no-merit report indicates that Castillo-Puac has not suggested any fact which might constitute a "new factor" warranting sentence modification. *See Rosado v. State*, 70 Wis. 2d 280, 288, 234 N.W.2d 69 (1975). Consequently, we are satisfied that the no-merit report properly analyzes this issue as without merit, and we will not discuss it further.

Finally, with respect to whether Castillo-Puac was afforded effective assistance of trial counsel, there is nothing in the record to suggest that trial counsel was ineffective. Indeed, prior to filing his motion to withdraw his plea, Castillo-Puac informed the court that he was satisfied with his trial counsel's representation. Again, we are satisfied that the no-merit report properly analyzes this issue as without merit, and we will not discuss it further.

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<sup>6</sup> Castillo-Puac is not an American citizen and will be deported for his crime. At sentencing, defense counsel indicated that Castillo-Puac understood this.

Our independent review of the record does not disclose any potentially meritorious issue for appeal.<sup>7</sup> 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 Jon Alfonso LaMendola 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 Jon Alfonso LaMendola is relieved of further representation of Castillo-Puac in this matter.

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

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<sup>7</sup> Castillo-Puac did file a motion to suppress a statement he made to police. However, he did not fully litigate the motion prior to entering his plea. Thus, we deem the issue abandoned and will not discuss it further. See *State v. Woods*, 144 Wis. 2d 710, 716, 424 N.W.2d 730 (Ct. App. 1988) (motion made but not pursued is abandoned).