



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](http://www.wicourts.gov)

**DISTRICT IV**

December 15, 2015

To:

Hon. Nicholas J. Brazeau Jr.  
Circuit Court Judge  
Wood County Courthouse  
P. O. Box 8095  
Wisconsin Rapids, WI 54494

Cindy Joosten  
Clerk of Circuit Court  
Wood County Courthouse  
P.O. Box 8095  
Wisconsin Rapids, WI 54494

Derek G. Dominguez  
Asst. District Attorney  
P. O. Box 8095  
Wisconsin Rapids, WI 54495-8095

Michael J. Herbert  
10 Daystar Ct., Ste. C  
Madison, WI 53704-7358

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

Brandi M. Lueck  
1451 Branding Iron Court  
Wisconsin Rapids, WI 54494

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

---

2014AP2587-CRNM      State of Wisconsin v. Brandi M. Lueck (L.C. # 2014CM85)

Before Sherman, J.<sup>1</sup>

Attorney Michael Herbert, appointed counsel for Brandi Lueck, has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 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 Lueck's plea or sentencing. Lueck was sent a copy of the report, but has not filed a response. Upon independently reviewing the entire record, as well as the no-

---

<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(f) (2013-14). All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

merit report, we agree with counsel's assessment that there are no arguably meritorious appellate issues. Accordingly, we affirm.

Lueck was charged with disorderly conduct, domestic abuse. Pursuant to a plea agreement, Lueck pled guilty to the charged crime, and the State limited its sentencing recommendation to eighteen months of probation with fifteen days of conditional jail time and a \$200 fine. The court sentenced Lueck to eighteen months of probation, sentence withheld, and imposed ten days of conditional jail time.

First, the no-merit report addresses whether there would be arguable merit to a challenge to the validity of Lueck's plea. A postsentencing 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, together with the plea questionnaire and waiver of rights form that Lueck signed, satisfied the court's mandatory duties to personally address Lueck and determine information such as Lueck's education and ability to understand the proceedings, Lueck's understanding of the nature of the charge and the range of punishments she faced, and that the court was not bound by the plea agreement.<sup>2</sup> 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

---

<sup>2</sup> No-merit counsel notes that, during the plea colloquy, the circuit court did not specifically address each of the constitutional rights Lueck would waive by entering a plea or the specific elements of the offense, and did not give Lueck the deportation warning required under Wis. STAT. § 971.08(c). See *State v. Hoppe*, 2009 WI 41, ¶18, 317 Wis. 2d 161, 765 N.W.2d 794. Counsel informs us, however, that there would be no arguable merit to a claim for plea withdrawal based on any deficiency in the plea colloquy, and Lueck has not filed a response disputing that point. See *id.*, ¶4 n.5 (a postconviction motion for plea withdrawal based on a defect in the plea colloquy "must also allege that the defendant did not know or understand the information that should have been provided at the plea hearing"); *State v. Douangmala*, 2002 WI 62, ¶46, 253 Wis. 2d 173, 646 N.W.2d 1 (a postconviction motion for plea withdrawal based on the court's failure to give the required deportation warning must demonstrate that the plea is likely to result in the defendant's deportation).

plea withdrawal. Accordingly, we agree with counsel's assessment that a challenge to Lueck's plea would lack arguable merit.

Next, the no-merit report addresses whether there would be arguable merit to a challenge to Lueck'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 facts relevant to the standard sentencing factors and objectives, including Lueck's character and criminal history, the seriousness of the offense, and the need to protect the public. *See State v. Gallion*, 2004 WI 42, ¶¶17-51, 270 Wis. 2d 535, 678 N.W.2d 197. The sentence was within the maximum Lueck faced and, given the facts of this case, was not so excessive or unduly harsh as to shock the conscience. *See 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 Michael Herbert is relieved of any further representation of Brandi Lueck in this matter. *See* WIS. STAT. RULE 809.32(3).

---

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