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DISTRICT II

April 6, 2016

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

2016AP92-CRNM State of Wisconsin v. Juan A. Aguilar-Castro (L.C. #2012CF257)

Before Reilly, P.J., Gundrum and Hagedorn, JJ.

Juan A. Aguilar-Castro appeals from a judgment convicting him of causing mental harm to a child and third-degree sexual assault of a child. Aguilar-Castro'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). Aguilar-Castro received a copy of the report, was advised of his right to file a response, and has elected not to do so. After reviewing the record and counsel's report, we

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

conclude that there are no issues with arguable merit for appeal. Therefore, we summarily affirm the judgment. RULE 809.21.

In December 2014, Aguilar-Castro pled guilty to causing mental harm to a child and third-degree sexual assault of a child. The charges stemmed from his actions involving an eight-year-old girl, who was the daughter of a woman he was dating. According to the criminal complaint,² Aguilar-Castro showed the girl pornography and had sexual intercourse with her. The girl was particularly vulnerable, as she suffered from a brain injury from having been abused as an infant. Ultimately, the circuit court sentenced Aguilar-Castro to a total of ten years of initial confinement followed by ten years of extended supervision. This no-merit appeal follows.

The no-merit report first addresses whether Aguilar-Castro's guilty pleas were knowingly, voluntarily, and intelligently entered. The record shows that the circuit court engaged in a colloquy with Aguilar-Castro that satisfied the applicable requirements of WIS. STAT. § 971.08(1) and *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906. A signed plea questionnaire and waiver of rights form was entered into the record. We agree with counsel that a challenge to the entry of Aguilar-Castro's guilty pleas 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 court's sentencing 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 making its decision, the court considered the seriousness of the offenses, Aguilar-Castro's character, and the need to protect the public. *State v. Ziegler*, 2006 WI App 49,

² Aguilar-Castro was originally charged with first-degree sexual assault of a child.

¶23, 289 Wis. 2d 594, 712 N.W.2d 76. Under the circumstances of the case, which were aggravated by the age and vulnerability of the victim, the total sentence imposed 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.

Our independent review of the record does not disclose any potentially meritorious issue for appeal. 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 Susan E. Alesia 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 Susan E. Alesia is relieved of further representation of Aguilar-Castro in this matter.

Diane M. Fremgen
Clerk of Court of Appeals