



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 III**

October 21, 2016

To:

Hon. Eugene D. Harrington  
Circuit Court Judge  
P.O. Box 339  
Shell Lake, WI 54871

Jobie Bainbridge  
Clerk of Circuit Court  
Polk County Justice Center  
1005 W. Main St., Suite 300  
Balsam Lake, WI 54810

Ellen J. Krahn  
Assistant State Public Defender  
P. O. Box 7862  
Madison, WI 53707

Daniel P. Steffen  
District Attorney  
Polk County District Attorneys Ofc  
1005 W. Main St., #700  
Balsam Lake, WI 54810-4407

Criminal Appeals Unit  
Department of Justice  
P.O. Box 7857  
Madison, WI 53707-7857

Nichole Rose Leggett 620996  
Taycheedah Corr. Inst.  
P.O. Box 3100  
Fond du Lac, WI 54936-3100

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

---

2015AP808-CRNM      State of Wisconsin v. Nichole Rose Leggett  
(L. C. No. 2012CF453)

Before Stark, P.J., Hruz and Seidl, JJ.

Counsel for Nichole Leggett has filed a no-merit report concluding there is no basis to challenge Leggett's conviction for sexual assault of a child under the age of sixteen. Leggett has responded. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude there is no arguable merit to any issue that could be raised on

appeal. Therefore, we summarily affirm the judgment of conviction. *See* WIS. STAT. RULE 809.21.<sup>1</sup>

Leggett was charged with two counts of sexual assault of a child under the age of sixteen in Polk County case No. 2012CF453. Subsequently, another five-count complaint was filed in case No. 2013CF98, alleging two counts of repeated sexual assault of a child, and three counts of bail jumping. The parties reached a plea agreement, but at the plea hearing the circuit court learned that Leggett had scheduled an appointment with a psychiatrist, and the court adjourned the plea hearing until after Leggett's appointment. Leggett subsequently entered a no-contest plea to one count of sexual assault of a child under the age of sixteen, and the remaining charges in both cases were dismissed and read in. The court imposed a sentence consisting of twelve years' initial confinement and twelve years' extended supervision.

There is no manifest injustice upon which Leggett could withdraw her plea. *See State v. Duychak*, 133 Wis. 2d 307, 312, 395 N.W.2d 795 (Ct. App. 1986). The circuit court's lengthy colloquies at the initial and continued plea hearings, buttressed by the plea questionnaire and waiver of rights form, informed Leggett of the constitutional rights she waived by pleading no-contest, the elements of the offenses and the potential punishment.<sup>2</sup> The court specifically advised Leggett of the potential deportation consequences of her plea, as mandated by WIS.

---

<sup>1</sup> All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

<sup>2</sup> We note that at the continuation of the plea hearing, the circuit court failed to advise Leggett that the court was not bound by the plea agreement. *See State v. Hampton*, 2004 WI 107, ¶2, 274 Wis. 2d 379, 683 N.W.2d 14. However, the court advised Leggett at the initial plea hearing that it was not bound by the terms of the plea agreement and could impose the maximum penalties. Moreover, the court followed the plea agreement recommendation, and any error in failing to advise Leggett at the continuation of the plea hearing that the court was not bound by the parties' agreement is therefore harmless. *See State v. Johnson*, 2012 WI App 21, ¶14, 339 Wis. 2d 421, 811 N.W.2d 441.

STAT. § 971.08(1)(c). A sufficient factual basis in the complaint and preliminary hearing supported the conviction. The court also confirmed medications Leggett was taking did not interfere with her ability to understand the proceedings. The record shows the plea was knowingly, voluntarily, and intelligently entered. See *State v. Bangert*, 131 Wis. 2d 246, 257, 389 N.W.2d 12 (1986). Entry of a valid no-contest or guilty plea constitutes a waiver of nonjurisdictional defenses and defects. *Id.* at 265-66.

The record also discloses no basis for challenging the sentence imposed. The circuit court considered the proper factors, including Leggett's character, the seriousness of the offense, and the need to protect the public. See *State v. Gallion*, 2004 WI 42, 270 Wis. 2d 535, 678 N.W.2d 197. The court's sentence was well within the maximum forty years' imprisonment, and is therefore presumptively neither harsh nor excessive. See *State v. Grindemann*, 2002 WI App 106, ¶¶29-33, 255 Wis. 2d 632, 648 N.W.2d 507.

We note the circuit court referenced the COMPAS risk assessment at sentencing. However, the record shows it was not "determinative" of the sentence imposed. See *State v. Loomis*, 2016 WI 68, ¶¶98-99, 371 Wis. 2d 235, 881 N.W.2d 749. Accordingly, any challenge to the sentence based on the court's reference to COMPAS would lack arguable merit.

Leggett's response to the no-merit report alleges ineffective assistance of counsel. Our independent review of the record discloses no deficient performance and no other potential issues for appeal.

Therefore,

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

IT IS FURTHER ORDERED that attorney Ellen Krahn is relieved of further representing Leggett in this matter. *See* WIS. STAT. RULE 809.32(3).

---

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