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DISTRICT IV

August 29, 2017

To:

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Circuit Court Judge
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Jacki Gackstatter
Clerk of Circuit Court
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Ricardo O. Lucero
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You are hereby notified that the Court has entered the following opinion and order:

2016AP1578-CRNM State of Wisconsin v. Ricardo O. Lucero (L.C. # 2015CT573)

Before Lundsten, P.J.¹

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Attorney Diane Lowe, appointed counsel for Ricardo Lucero, has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 and *Anders v. California*, 386 U.S. 738 (1967). Counsel

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2) (2015-16). All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

provided Lucero with a copy of the report, and both counsel and this court advised him of his right to file a response. Lucero has not responded. After my independent review of the record, I conclude that there is no arguable merit to any issue that could be raised on appeal.

Lucero was convicted of one count of operating while intoxicated, as a second offense. The court imposed 30 days in jail, a fine, and other penalties.

In my order of July 21, 2017, I discussed Lucero's assertion, as reported in the no-merit report, that he did not understand that the joint recommendation for jail time included a recommendation that the jail time be consecutive to other sentences. I concluded that counsel's discussion in the no-merit report did not establish that this issue would be frivolous. I ordered counsel to further address the issue.

In response, counsel informs me by letter that Lucero "does not want to pursue this issue further." Therefore, I do not discuss this issue further.

It is not clear from counsel's response whether Lucero has decided that he does not want to withdraw his plea on that specific ground, or that he does not want to withdraw his plea for *any* reason. Therefore, I further address the plea. The plea colloquy sufficiently complied with the requirements of *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906, and WIS. STAT. § 971.08 relating to the nature of the charge, the rights Lucero was waiving, and other matters. The record shows no other ground to withdraw the plea. There is no arguable merit to this issue.

The no-merit report addresses the sentence. The standards for the circuit court and this court on sentencing issues are well established and need not be repeated here. See *State v.*

Gallion, 2004 WI 42, ¶¶17-51, 270 Wis. 2d 535, 678 N.W.2d 197. In this case, the court considered appropriate factors, did not consider improper factors, and reached a reasonable result. There is no arguable merit to this issue.

My review of the record discloses no other potential issues for appeal.

Therefore,

IT IS ORDERED that the judgment of conviction is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Diane Lowe is relieved of further representation of Ricardo Lucero in this matter. *See* WIS. STAT. RULE 809.32(3).

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Diane M. Fremgen
Clerk of Court of Appeals