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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  
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**DISTRICT II**

February 7, 2018

To:

Hon. Robert J. Wirtz  
Circuit Court Judge  
Fond du Lac County Courthouse  
160 South Macy Street  
Fond du Lac, WI 54935

Ramona Geib  
Clerk of Circuit Court  
Fond du Lac County Courthouse  
160 S. Macy St.  
Fond du Lac, WI 54935

Timothy T. O'Connell  
O'Connell Law Office  
403 S. Jefferson St.  
Green Bay, WI 54301

Eric Toney  
District Attorney  
Fond du Lac County  
160 S. Macy St.  
Fond du Lac, WI 54935

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

Raquel M. Santiago-Orozco 643590  
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:

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2016AP2320-CRNM      State of Wisconsin v. Raquel M. Santiago-Orozco  
(L.C. # 2015CF421)

Before Neubauer, C.J., Reilly, P.J., and Hagedorn, J.

**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).**

Raquel Santiago-Orozco appeals from a judgment convicting her of conspiracy to deliver cocaine contrary to WIS. STAT. § 961.41(1)(cm)4 and (1x) (2015-16).<sup>1</sup> Santiago-Orozco's appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 and *Anders v.*

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

*California*, 386 U.S. 738 (1967). Santiago-Orozco received a copy of the report and has filed a response. Upon consideration of the report, Santiago-Orozco's response and an independent review of the record as mandated by *Anders* and RULE 809.32, we summarily affirm the judgment because there are no issues that would have arguable merit for appeal. WIS. STAT. RULE 809.21.

The no-merit report addresses the following possible appellate issues: (1) whether Santiago-Orozco's no contest plea was knowingly, voluntarily and intelligently entered and had a factual basis; and (2) whether the circuit court misused its sentencing discretion. We agree with appellate counsel that these issues do not have arguable merit for appeal.

With regard to the entry of her no contest plea, Santiago-Orozco answered questions about the plea and her understanding of her constitutional rights during a colloquy with the circuit court that complied with *State v. Hoppe*, 2009 WI 41, ¶18, 317 Wis. 2d 161, 765 N.W.2d 794. Additionally, the plea questionnaire and waiver of rights form Santiago-Orozco signed is competent evidence of a knowing and voluntary plea. *State v. Moerderdorfer*, 141 Wis. 2d 823, 827-29, 416 N.W.2d 627 (Ct. App. 1987). Although a plea questionnaire and waiver of rights form may not be relied upon as a substitute for a substantive in-court personal colloquy, it may be referred to and used at the plea hearing to ascertain the defendant's understanding and knowledge at the time a plea is taken. *Hoppe*, 317 Wis. 2d 161, ¶¶30-32. The record discloses that Santiago-Orozco's no contest plea was knowingly, voluntarily and intelligently entered, *State v. Bangert*, 131 Wis. 2d 246, 260, 389 N.W.2d 12 (1986), and that it had a factual basis, *State v. Harrington*, 181 Wis. 2d 985, 989, 512 N.W.2d 261 (Ct. App. 1994). We agree with appellate counsel that there would be no arguable merit to a challenge to the entry of Santiago-Orozco's no contest plea.

With regard to the sentence, the record reveals that the sentencing court's discretionary 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). The court adequately discussed the facts and factors relevant to sentencing Santiago-Orozco to a thirteen-year term (ten years of initial confinement and three years of extended supervision) with eligibility for the Challenge Incarceration Program or the Substance Abuse Program after five years. In fashioning the sentence, the court considered the seriousness of the offense, Santiago-Orozco's character and substance abuse, the impact on the community of the drug trade, and the need to protect the public. *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. The weight of the sentencing factors was within the circuit court's discretion. *State v. Stenzel*, 2004 WI App 181, ¶16, 276 Wis. 2d 224, 688 N.W.2d 20. The sentence complied with WIS. STAT. § 973.01 relating to the imposition of a bifurcated sentence of confinement and extended supervision. The \$250 DNA surcharge was appropriately imposed. WIS. STAT. § 973.046(1r)(a). We agree with appellate counsel that there would be no arguable merit to a challenge to the sentence.

In her response, Santiago-Orozco expresses remorse. She also refers to the progress she has made in prison along with the insight she has developed into her prior conduct. Notwithstanding these statements, Santiago-Orozco's response does not suggest the presence of an arguably meritorious appellate issue relating to the exercise of sentencing discretion.

In addition to the issues discussed above, we have independently reviewed the record. Our independent review of the record did 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, affirm the judgment of conviction and relieve Attorney Timothy O'Connell of further representation of Santiago-Orozco 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 Timothy O'Connell is relieved of further representation of Raquel Santiago-Orozco in this matter.

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

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