



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

DISTRICT IV

August 20, 2020

To:

Hon. Jill Karofsky
Circuit Court Judge
Dane County Courthouse
215 S. Hamilton St.
Madison, WI 53703

Carlo Esqueda
Clerk of Circuit Court
Dane County Courthouse
215 S. Hamilton St., Rm. 1000
Madison, WI 53703

Erin Hanson
Assistant District Attorney
215 S. Hamilton St., Rm. 3000
Madison, WI 53703

Megan Sanders-Drazen
Assistant State Public Defender
P.O. Box 7862
Madison, WI 53707-7862

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

Jose G. Guzman-Rosiles 528688
Jackson Correctional Inst.
P.O. Box 233
Black River Falls, WI 54615-0233

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

2019AP470-CRNM State of Wisconsin v. Jose G. Guzman-Rosiles (L.C. # 2017CF889)

Before Fitzpatrick, P.J., Blanchard, and Graham, JJ.

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 Mark R. Thompson, appointed counsel for Jose G. Guzman-Rosiles, has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2017-

18)¹ and *Anders v. California*, 386 U.S. 738, 744 (1967). Attorney Megan Sanders-Drazen has substituted as appointed counsel. The no-merit report addresses whether there would be arguable merit to a challenge to the circuit court decision denying Guzman-Rosiles's motion to dismiss, or to Guzman-Rosiles's plea or sentencing. Guzman-Rosiles was sent a copy of the report, but has not filed a response. Upon independently reviewing the entire record, as well as the no-merit report, we agree with counsel's assessment that there are no arguably meritorious appellate issues. Accordingly, we affirm.

Guzman-Rosiles was charged with first-degree recklessly endangering safety by use of a dangerous weapon and attempting to flee or elude a traffic officer. Pursuant to a plea agreement, Guzman-Rosiles pled guilty to second-degree recklessly endangering safety, the dangerous weapon enhancer and the attempting to flee or elude charge were dismissed, and the parties jointly recommended a sentence of three years of initial confinement and three years of extended supervision, concurrent to Guzman-Rosiles's revocation sentence. The court followed the joint sentencing recommendation. The court granted Guzman-Rosiles 376 days of sentence credit, on counsel's stipulation. The court also found Guzman-Rosiles eligible for the Challenge Incarceration and Substance Abuse Programs.

The no-merit report addresses whether there would be arguable merit to a challenge to the circuit court's decision denying Guzman-Rosiles's motion to dismiss with prejudice for a prompt disposition violation. *See* WIS. STAT. § 971.11(7). The no-merit report concludes that the circuit court properly granted a continuance for good cause, and that any challenge to the circuit court's

¹ All references to the Wisconsin Statutes are to the 2017-18 version unless otherwise noted.

decision denying the motion to dismiss would lack arguable merit. We agree with the analysis set forth in the no-merit report. Moreover, the guilty plea waiver rule applies to a motion to dismiss based on a speedy trial or prompt disposition violation. See *State v. Asmus*, 2010 WI App 48, ¶¶5-6, 324 Wis. 2d 427, 782 N.W.2d 435. Accordingly, Guzman-Rosiles's guilty plea waived any challenge to the court's decision denying the motion to dismiss.

The no-merit report also addresses whether there would be arguable merit to a challenge to Guzman-Rosiles's plea. A post-sentencing 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 that Guzman-Rosiles signed, satisfied the court's mandatory duties to personally address Guzman-Rosiles and determine information such as Guzman-Rosiles's understanding of the nature of the charge and the range of punishments he faced, the constitutional rights he waived by entering a plea, and the direct consequences of the plea. 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 plea withdrawal. Accordingly, we agree with counsel's assessment that a challenge to Guzman-Rosiles's plea would lack arguable merit. A valid guilty plea constitutes a waiver of all nonjurisdictional defects and defenses. *State v. Kelty*, 2006 WI 101, ¶18, 294 Wis. 2d 62, 716 N.W.2d 886.

Finally, the no-merit report addresses whether there would be arguable merit to a challenge to Guzman-Rosiles's sentence. We agree with counsel that this issue lacks arguable merit. Because Guzman-Rosiles received the sentence he affirmatively approved, he is barred from challenging the sentence on appeal. See *State v. Scherreiks*, 153 Wis. 2d 510, 517-18, 451

N.W.2d 759 (Ct. App. 1989). We discern no other basis to challenge the sentence imposed by the circuit court.

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 Megan Sanders-Drazen is relieved of any further representation of Jose G. Guzman-Rosiles in this matter. *See* WIS. STAT. RULE 809.32(3).

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

Sheila T. Reiff
Clerk of Court of Appeals