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 II

April 7, 2021

To:

Hon. Jeffrey S. Froehlich
Circuit Court Judge
Calumet County Courthouse
206 Court St.
Chilton, WI 53014

Connie Daun
Clerk of Circuit Court
Calumet County Courthouse
206 Court St.
Chilton, WI 53014

Nathan F. Haberman
District Attorney
206 Court St.
Chilton, WI 53014

Angela Dawn Wenzel
Law Office of Angela D. Wenzel
4321 W. College Ave., Ste. 200
Appleton, WI 54914

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

Cheenou Vang, #663099
Oshkosh Correctional Inst.
P.O. Box 3310
Oshkosh, WI 54903-3310

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

2019AP1093-CRNM State of Wisconsin v. Cheenou Vang (L.C. #2017CF1)

Before Neubauer, C.J., Reilly, P.J., and Gundrum, 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).

Cheenou Vang appeals a judgment of conviction entered upon his no contest plea to second-degree sexual assault. His appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2019-20)[1] and ***Anders v. California***, 386 U.S. 738, 744 (1967). Vang

[1] All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

received a copy of the report, was advised of his right to file a response, and elected not to do so. Upon consideration of the report and an independent review of the record, we conclude that the judgment may be summarily affirmed because there are no arguably meritorious issues for appeal. *See* WIS. STAT. RULE 809.21.

Vang was charged with second-degree sexual assault contrary to WIS. STAT. § 940.225(2)(a), a Class C felony. The complaint alleged that Vang had sexual intercourse with a younger relative, without her consent and by use of force. Pursuant to a plea agreement, he pled no contest to the charge, and the State agreed to recommend twenty years of initial confinement followed by ten years of extended supervision. A presentence investigation report (PSI) was prepared and its author recommended nine to ten years of initial confinement followed by ten to fifteen years of extended supervision. At sentencing, Vang asked the circuit court to "follow the recommendation of the PSI," stating that "nine to ten years of initial confinement followed by ten to fifteen years of extended supervision is an appropriate sentence." The court imposed a bifurcated sentence totaling twenty-five years, with eleven years of initial confinement followed by fourteen years of extended supervision.

Appellate counsel's no-merit report addresses whether Vang's no contest plea was knowingly, intelligently, and voluntarily entered. The record shows that the circuit court engaged in an appropriate colloquy and made the necessary advisements and findings required by WIS. STAT. § 971.08(1), ***State v. Bangert***, 131 Wis. 2d 246, 266-72, 389 N.W.2d 12 (1986), and ***State v. Hampton***, 2004 WI 107, ¶38, 274 Wis. 2d 379, 683 N.W.2d 14. *See also* ***State v. Brown***, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906. Additionally, the circuit court properly relied upon Vang's signed plea questionnaire. *See* ***State v. Moederndorfer***, 141 Wis. 2d 823, 827-28, 416 N.W.2d 627 (Ct. App. 1987). We agree with appellate counsel that the circuit

court conducted a plea colloquy that, together with Vang's signed plea questionnaire, satisfied the court's mandatory duties such that a challenge to the entry of Vang's no contest plea would lack arguable merit.

Next, the no-merit report 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). The court's sentencing remarks show that it considered the seriousness of the offense, the character of the offender, and the need to protect the public. *See* ***State v. Ziegler***, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. The court determined that the already serious offense, a Class C felony, was aggravated by its effect on the victim, including her difficulties at school and fear of being home alone. In terms of character, the court noted with approval Vang's lack of a prior criminal record and his initial cooperation with law enforcement, but found that he was to some degree self-centered and lacking in empathy. The court determined that there was a need to hold Vang accountable for his actions, adding, "You need to be punished, and until you can be out in society and see a situation where you see a vulnerable person, someone that could be taken advantage of, and instead of fulfilling your own personal needs and wants, you protect the person and you help that person, you are a risk to the community." In the end, the court determined that its sentence was "necessary to, first of all, hold you accountable for your actions and also to protect the public." Under the circumstances, it cannot reasonably be argued that Vang's sentence is so excessive as to shock public sentiment. *See* ***Ocanas v. State***, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). We agree with appellate counsel that a challenge to Vang's sentence would lack arguable merit.

Our review of the record discloses no other potential issues for appeal. Accordingly, the court accepts the no-merit report, affirms the judgment of conviction, and discharges appellate counsel of the obligation to further represent Vang in this 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 Angela Dawn Wenzel is relieved from further representing Cheenou Vang in this appeal. *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