

809.32 and *Anders v. California*, 386 U.S. 738 (1967). Puentes received a copy of the report, was advised of her right to file a response, and has elected not to do so. Following an initial review, this court concluded that a record supplement was required and ordered appellate counsel to address the issue of restitution. Upon consideration of the no-merit report, the supplemental no-merit report, and an independent review of the record as mandated by *Anders*, we conclude that the judgment may be summarily affirmed because there is no arguable merit to any issue that could be raised on appeal. *See* WIS. STAT. RULE 809.21.

The State filed a criminal complaint charging Puentes with the following crimes: armed robbery; first-degree recklessly endangering safety; fleeing or eluding an officer; operating a motor vehicle without the owner's consent; and resisting an officer. The complaint alleged that in January 2018, Puentes, who was seventeen years old at the time, and another individual carjacked C.T. outside of her home. The complaint further alleged that Puentes told C.T. that she was armed with a gun before she got into C.T.'s car and drove off.

Police subsequently observed C.T.'s car speeding and striking other vehicles on a city street. Puentes eventually stopped the car (after striking two police squad cars), fled on foot, and attempted to punch a police officer before being arrested.

Puentes pled guilty to robbery and second-degree recklessly endangering safety. Pursuant to the plea agreement, the State agreed to move the circuit court to dismiss and read in the remaining charges. The State also agreed to recommend a global sentence of five years of initial confinement and to not make a recommendation as to extended supervision.

The circuit court accepted Puentes' pleas. On August 15, 2018, the circuit court ordered her to serve concurrent sentences of eight years on the robbery charge (five years of initial

confinement and three years of extended supervision) and six years on the charge of second-degree recklessly endangering safety (three years of initial confinement and three years of extended supervision). The circuit court additionally made Puentes eligible for the Challenge Incarceration Program after she served two-and-one-half years of her initial confinement time.

In terms of restitution, defense counsel explained at the sentencing hearing that Puentes was prepared to go forward with C.T.'s restitution request. Based on the arguments of defense counsel, that amount was ultimately reduced from the \$2,500 C.T. requested to \$750. With regard to the insurance companies' submissions related to the various vehicles that were damaged, defense counsel asked for an adjourned restitution hearing "on that part." The circuit court ordered Puentes to pay restitution to C.T., but held open the other amounts, to be determined at a later date.

At the restitution hearing that followed on December 21, 2018, the circuit court clarified its award of \$753.99 payable to C.T. and further ordered Puentes to pay restitution as follows: \$2,666.72 payable to Acuity; \$16,321.74 payable to Progressive; and \$3,580.82 to Secura. The latter charges reflected amounts paid by the insurance companies for damages related to their insureds' vehicles.

On February 18, 2019, the State filed a motion to reopen the restitution hearing because it neglected to include a separate request from Progressive for an additional \$15,016.20, which related to amounts it paid on behalf of another insured. At a hearing on July 16, 2019, the prosecutor explained that the additional request for restitution was timely filed but informed the circuit court that she had "reviewed it unfortunately too quickly" and did not notice Progressive's request for the additional amount at the time of the restitution hearing.

Puentes objected based on timeliness. The circuit court ordered additional restitution against Puentes in the amount requested, noting that the request was timely made and the parties simply overlooked it during the original restitution hearing. The circuit court described it as “a clerical error on everybody’s part, that none of us recognized ... at the time that the documents were filed.”

The no-merit report addresses the potential issues of whether Puentes’ pleas were knowingly, intelligently, and voluntarily entered and whether the sentences were the result of an erroneous exercise of discretion. This court is satisfied that the no-merit report properly analyzes the issues it raises as without merit, and this court will not discuss them further. The no-merit report did not, however, address the issue of restitution. Consequently, this court asked counsel to consider whether it would be frivolous for Puentes to seek relief as to these amounts based on timing issues under WIS. STAT. § 973.20(13) or on some other applicable theory.

In his supplemental no-merit response, counsel addresses the timing requirement detailed in WIS. STAT. § 973.20(13)(c)2., which provides that the circuit court may: “Adjourn the sentencing proceeding for up to 60 days pending resolution of the amount of restitution by the court, referee, or arbitrator.” Counsel acknowledges that the December 21, 2018 and the July 16, 2019 hearings exceeded the statutory time frame, but asserts that there is no issue of arguable merit that can be pursued on this basis.

Counsel provides details as to the reasons for the various delays that occurred prior to the December restitution hearing, noting that several adjournments were at the request of Puentes. Counsel further contends that it would be frivolous to argue that the February request by the State to reopen the restitution hearing so exceeded the sixty-day time limit that the restitution

order of \$15,016.20 should be vacated. Counsel highlights the objective of restitution, which is to efficiently compensate crime victims, and explains “that the sixty-day restitution determination period ... is directory, not mandatory.” See *State v. Perry*, 181 Wis. 2d 43, 53-54, 510 N.W.2d 722 (Ct. App. 1993). Having reviewed the supplemental record materials, including the transcript of the July 16, 2019 restitution hearing, we agree with counsel’s conclusion that this issue lacks arguable merit.

Our review of the record discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit report, affirms the judgment, and discharges appellate counsel of the obligation to represent Puentes further in this appeal.

Upon the foregoing, therefore,

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

IT IS FURTHER ORDERED that Attorney Thomas J. Erickson is relieved of further representation of Puentes 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