



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

June 22, 2022

To:

Hon. L. Edward Stengel
Circuit Court Judge
Electronic Notice

Melody Lorge
Clerk of Circuit Court
Sheboygan County Courthouse
Electronic Notice

Winn S. Collins
Electronic Notice

Angela Conrad Kachelski
Electronic Notice

Joel Urmanski
District Attorney
Electronic Notice

Romeo Alexis Torres, #680233
Racine Youthful Offender Corr. Facility
P.O. Box 2500
Racine, WI 53404-2500

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

2021AP1023-CRNM State of Wisconsin v. Romeo Alexis Torres (L.C. #2020CF727)

Before Neubauer, Grogan and Kornblum, 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).

Romeo Alexis Torres appeals a judgment of conviction, entered upon his no-contest pleas, to one count of possession with intent to deliver between ten and fifty grams of methamphetamine as a repeater and one count of possession of a firearm by a felon. Torres's appointed appellate counsel has filed a no-merit report and a supplemental no-merit report pursuant to WIS. STAT. RULE 809.32 (2019-20)¹ and *Anders v. California*, 386 U.S. 738 (1967).

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

Torres was advised of his right to file a response but has not done so. Upon consideration of the no-merit report, the supplemental no-merit report, and an independent review of the record as mandated by *Anders* and RULE 809.32, we conclude there is no arguable merit to any issue that could be raised on appeal and summarily affirm the judgment. *See* WIS. STAT. RULE 809.21(1).

By an amended information, Torres was charged with the crimes of conviction as well as two other drug offenses. According to the criminal complaint, an officer responding to a report of suspected drug activity at a residence pulled behind a car, which Torres immediately exited. There were three other passengers in the vehicle. After asking the occupants a few initial questions and then speaking to neighbors, the officer approached the car again, at which time Torres again immediately exited from the driver's seat. While searching Torres, the officer smelled marijuana coming from the vehicle and saw a marijuana bud in plain view in the back seat. A search of the vehicle yielded a handgun and additional drugs, including a block of methamphetamine. Torres told police that everything found in the vehicle was his, and later during a police interview he admitted to selling drugs.

After discovery, Torres and the State resolved the case with an agreement that Torres would plead no contest to the crimes of conviction, with the remaining counts dismissed and read in. The State agreed to recommend consecutive sentences consisting of seven years' initial confinement and seven years' extended supervision on the methamphetamine count and five years' initial confinement and five years' extended supervision on the firearm count. The circuit court accepted Torres's no-contest pleas and ordered consecutive sentences totaling seventeen years' imprisonment, consisting of six years each of initial confinement and extended supervision on the methamphetamine count and two years' initial confinement and three years'

extended supervision on the firearm count. The sentences were made concurrent to any other sentence Torres was then serving.

The no-merit report addresses whether Torres could raise nonfrivolous arguments related to: (1) the sufficiency of the plea colloquy; (2) whether Torres's pleas were knowing, intelligent and voluntary; (3) whether a factual basis existed for Torres's pleas; and (4) whether the circuit court erroneously exercised its sentencing discretion. After reviewing the no-merit report, this court requested a supplemental no-merit report regarding the adequacy of the circuit court's plea colloquy relating to Torres's education and general comprehension and to the voluntariness of his plea.

Our review of the appellate record satisfies us that the no-merit report sufficiently analyzes these issues and properly concludes that any challenge based upon them would lack arguable merit. Specifically, we conclude that the plea colloquy was sufficient to satisfy the requirements of WIS. STAT. § 971.08(1) and that the circuit court's reliance on the Plea Questionnaire/Waiver of Rights form was not so great that the form substituted for an in-court colloquy. See *State v. Hoppe*, 2009 WI 41, ¶¶18, 30-33, 39-42, 317 Wis. 2d 161, 765 N.W.2d 794 (distinguishing *State v. Moerderdorfer*, 141 Wis. 2d 823, 416 N.W.2d 627 (Ct. App. 1987) and holding that establishing a general understanding of the Plea Questionnaire/Waiver of Rights form is insufficient to discharge a circuit court's duties during a substantive colloquy). Moreover, as counsel describes, there is no basis in the appellate record to conclude Torres lacked sufficient education or general comprehension to validly enter the pleas nor that Torres

was induced to enter his pleas by threats or promises outside the plea agreement.² Our review of the appellate record discloses no other potentially meritorious issues for appeal.

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

IT IS FURTHER ORDERED that Attorney Angela Conrad Kachelski is relieved from further representing Romeo Alexis Torres 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

² The Plea Questionnaire/Waiver of Rights form states that Torres completed high school, understood the English language, was not receiving treatment for a mental illness or disorder, and had not consumed drugs or alcohol within the last twenty-four hours. Similarly, the form contains a section titled “Voluntary Plea,” which states that Torres’s plea was not predicated upon any threats or promises other than the plea agreement.

