



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
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT I

January 11, 2013

To:

Hon. Thomas P. Donegan
Circuit Court Judge
Milwaukee County Courthouse
901 N. 9th St.
Milwaukee, WI 53233

John Barrett
Clerk of Circuit Court
Room 114
821 W. State Street
Milwaukee, WI 53233

Russell J. A. Jones
Jones Law Firm LLC
12557 W. Burleigh St., Ste. 8
Brookfield, WI 53005

Karen A. Loebel
Asst. District Attorney
821 W. State St.
Milwaukee, WI 53233

Gregory M. Weber
Assistant Attorney General
P.O. Box 7857
Madison, WI 53707-7857

Jeremy C. Perri
First Asst. State Public Defender
735 North Water Street, Suite 912
Milwaukee, WI 53202

Joseph N. Ehmann
First Asst. State Public Defender
P.O. Box 7862
Madison, WI 53707-7862

Luis Rodolfo Perez
528 W. Orchard Street
Milwaukee, WI 53204

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

2012AP1865-CRNM State of Wisconsin v. Luis Rodolfo Perez (L.C. #2010CF5084)

Before Curley, P.J., Fine and Brennan, JJ.

Luis Rodolfo Perez was convicted of one count of substantial battery. He sought postconviction/appellate relief with the assistance of Attorney Russell J.A. Jones, who was appointed to represent him. Mr. Perez was killed on April 25, 2012. We allowed these proceedings to continue because “when a defendant dies while pursuing postconviction relief ... the defendant’s right to an appeal continues.” *State v. McDonald*, 144 Wis. 2d 531, 539, 424

N.W.2d 411 (1988). Jones has now filed a no-merit report seeking permission to withdraw. *See* WIS. STAT. RULE 809.32 (2009-10),¹ and *Anders v. California*, 386 U.S. 738, 744 (1967). After considering the no-merit report and conducting an independent review of the record, we conclude that there are no arguably meritorious appellate issues.

The no-merit report first addresses whether there would be arguable merit to an appellate challenge to Perez's guilty plea. The plea colloquy complied in all respects with the requirements of WIS. STAT. § 971.08, and *State v. Bangert*, 131 Wis. 2d 246, 266-72, 389 N.W.2d 12 (1986). The circuit court addressed whether Perez understood the charge against him, the penalties he faced, and the constitutional rights he would be waiving by entering a plea. Perez admitted the factual basis for the charge, which the circuit court stated on the record. We therefore conclude that there would be no arguable merit to an appellate challenge involving the plea.

The no-merit report next addresses whether there would be arguable merit to a claim that the circuit court misused its sentencing discretion. The circuit court sentenced Perez to two years of imprisonment, with one year of initial confinement and one year of extended supervision. The circuit court considered the appropriate sentencing factors in light of the facts of this case, reaching a reasoned and reasonable conclusion. Where, as here, the circuit court explains its application of the various sentencing considerations in accordance with the framework set forth in *State v. Gallion*, 2004 WI 42, ¶¶39-46, 270 Wis. 2d 535, 678 N.W.2d 197, we will affirm the

¹ All references to the Wisconsin Statutes are to the 2009-10 version unless otherwise noted.

circuit court's exercise of sentencing discretion. Therefore, we conclude that there would be no arguable merit to a challenge to the sentence on appeal.

Our independent review of the record reveals no arguable basis for reversing the judgment of conviction. Therefore, we affirm the judgment of conviction and relieve Jones of further representation.

Accordingly,

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

IT IS FURTHER ORDERED that Russell J.A. Jones is relieved of any further representation. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals