



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](http://www.wicourts.gov)

**DISTRICT III/II**

January 23, 2013

To:

Hon. Mark A. Warpinski  
Circuit Court Judge  
Brown County Courthouse  
P.O. Box 23600  
Green Bay, WI 54305-3600

Jason B. Beck  
Clerk of Circuit Court  
Brown County Courthouse  
P.O. Box 23600  
Green Bay, WI 54301-3600

Chris A. Gramstrup  
Gramstrup Law Office  
1409 Hammond Ave., Ste. 322  
Superior, WI 54880

David L. Lasee  
District Attorney  
P.O. Box 23600  
Green Bay, WI 54305-3600

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

Cesar D. Zapeda 584911  
New Lisbon Corr. Inst.  
P.O. Box 4000  
New Lisbon, WI 53950-4000

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

---

2012AP1478-CRNM      State of Wisconsin v. Cesar D. Zapeda (L.C. # 2011CF33)

Before Brown, C.J., Neubauer, P.J., and Gundrum, J.

Cesar D. Zapeda appeals from a judgment convicting him of incest with a child. Zapeda's appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2009-10)<sup>1</sup> and *Anders v. California*, 386 U.S. 738 (1967). Zapeda received a copy of the report, was advised of his right to file a response, and has elected not to do so. After reviewing the record

---

<sup>1</sup> All references to the Wisconsin Statutes are to the 2009-10 version.

and counsel's report, we conclude that there are no issues with arguable merit for appeal. Therefore, we summarily affirm the judgment. *See* WIS. STAT. RULE 809.21.

The no-merit report addresses the following appellate issues: (1) whether Zapeda's plea of no contest was knowingly, intelligently, and voluntarily entered; (2) whether the circuit court erroneously exercised its discretion at sentencing; and (3) whether Zapeda was afforded effective assistance of counsel.

With respect to the entry of the no contest plea, the record shows that the circuit court engaged in a colloquy with Zapeda that satisfied the requirements of WIS. STAT. § 971.08(1)(a), *State v. Bangert*, 131 Wis. 2d 246, 266-72, 389 N.W.2d 12 (1986), and *State v. Hampton*, 2004 WI 107, ¶¶33, 38, 274 Wis. 2d 379, 683 N.W.2d 14. In addition, a signed plea questionnaire and waiver of rights form was entered into the record. Finally, according to the no-merit report, Zapeda does not assert that he did not understand any aspect of the plea agreement or any of the rights he waived by entering his plea. For these reasons, we agree with counsel that any challenge to the entry of Zapeda's no contest plea would lack arguable merit.

With respect to the sentence imposed, the record reveals that the circuit 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). In imposing its sentence, the court considered the seriousness of the offense, Zapeda's character, and the need to protect the public. *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. Under the circumstances of the case, the sentence of twenty years of imprisonment, which was half of the maximum sentence Zapeda faced, does not "shock public sentiment and violate the judgment of reasonable people concerning what is right and proper." *Ocanas v. State*, 70 Wis. 2d 179, 185,

233 N.W.2d 457 (1975). Accordingly, we agree with counsel that a challenge to Zapeda's sentence would lack arguable merit.

Finally, with respect to whether Zapeda was afforded effective assistance of counsel, there is nothing in the record to suggest that Zapeda's trial counsel was ineffective. Moreover, according to the no-merit report, Zapeda is unable to cite any specific deficiency in his trial counsel's performance. Consequently, this court is satisfied that the no-merit report properly analyzes this issue as without merit, and this court will not discuss it further.

Our independent review of the record does not disclose any potentially meritorious issue for appeal. Because we conclude that there would be no arguable merit to any issue that could be raised on appeal, we accept the no-merit report and relieve Attorney Chris A. Gramstrup of further representation in this matter.

Upon the foregoing reasons,

IT IS ORDERED that the judgment of the circuit court is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Chris A. Gramstrup is relieved of further representation of Zapeda in this matter.

---

*Diane M. Fremgen*  
*Clerk of Court of Appeals*