



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 III

July 30, 2013

To:

Hon. David G. Miron
Circuit Court Judge
Marinette County Courthouse
1926 Hall Avenue
Marinette, WI 54143

Linda Dumke-Marquardt
Clerk of Circuit Court
Marinette County Courthouse
1926 Hall Avenue
Marinette, WI 54143

Allen R. Brey
District Attorney
1926 Hall Avenue
Marinette, WI 54143-1717

Steven D. Phillips
Asst. State Public Defender
P.O. Box 7862
Madison, WI 53707-7862

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

Andrew M. Dunse
401 Carney Blvd.
Marinette, WI 54143

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

2013AP665-CRNM State of Wisconsin v. Andrew M. Dunse (L. C. #2012CM78)

Before Mangerson, J.¹

Counsel for Andrew Dunse has filed a no-merit report pursuant to WIS. STAT. RULE 809.32, concluding no grounds exist to challenge Dunse's conviction for intentionally mistreating an animal. Dunse was informed of his right to file a response to the no-merit report and has not responded. Upon an independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), this court concludes there is no arguable merit to any issue that

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2). All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

could be raised on appeal. Therefore, the judgment of conviction is summarily affirmed. *See* WIS. STAT. RULE 809.21.

The State charged Dunse with disorderly conduct and intentionally mistreating an animal. The complaint arose from allegations surrounding an argument Dunse had with his girlfriend, Veronica S. As Veronica was leaving the couple's residence, she called her dog to her. After Veronica picked up the dog, Dunse grabbed the dog and kicked it outside as if punting a football. In exchange for his no contest plea to animal mistreatment, the State agreed to dismiss and read in the disorderly conduct charge. The court ultimately imposed the maximum sentence of nine months in jail.

The record discloses no arguable basis for withdrawing Dunse's no contest plea. The court's plea colloquy, supplemented by a plea questionnaire and waiver of rights form that Dunse completed, informed Dunse of the elements of the offense, the penalties that could be imposed, and the constitutional rights he waived by entering a no contest plea. The court ascertained that anti-seizure medication Dunse was taking did not interfere with his ability to understand the proceedings. The court advised Dunse of the deportation consequences of his plea, as mandated by WIS. STAT. § 971.08(1)(c), and confirmed Dunse's understanding that it was not bound by the terms of the plea agreement. *See State v. Hampton*, 2004 WI 107, ¶2, 274 Wis. 2d 379, 683 N.W.2d 14. The court also found that a sufficient factual basis existed in the criminal complaint to support Dunse's plea. The record shows the plea was knowingly, voluntarily and intelligently made. *See State v. Bangert*, 131 Wis. 2d 246, 257, 389 N.W.2d 12 (1986).

The record discloses no arguable basis for challenging the sentence imposed. Before imposing a sentence authorized by law, the court considered the seriousness of the offense, Dunse's character, including his criminal history, the need to protect the public, and the mitigating factors Dunse raised. *See State v. Gallion*, 2004 WI 42, 270 Wis. 2d 535, 678 N.W.2d 197. The court specifically noted that kicking a defenseless animal like a football was "pretty despicable," and further questioned whether Dunse could be rehabilitated given his lengthy criminal record. Under these circumstances, it cannot reasonably be argued that Dunse'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).

An independent review of the record discloses no other potential issues for appeal.

Therefore,

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

IT IS FURTHER ORDERED that attorney Steven D. Phillips is relieved of further representing Dunse in this matter. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals