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DISTRICT II

September 2, 2015

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

| | |
|----------------|---|
| 2015AP432-CRNM | State of Wisconsin v. Sergio L. Ratliff (L.C. #2014CF165) |
| 2015AP433-CRNM | State of Wisconsin v. Sergio L. Ratliff (L.C. #2014CF624) |

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

In these consolidated cases, Sergio L. Ratliff appeals from two judgments of conviction. Ratliff's appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2013-14)¹ and *Anders v. California*, 386 U.S. 738 (1967). Ratliff 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 and counsel's report, we conclude that there are no issues with arguable merit for appeal. Therefore, we summarily affirm the judgments. WIS. STAT. RULE 809.21.

¹ All references to the Wisconsin Statutes are to the 2013-14 version.

Ratliff was convicted following guilty pleas to two counts of disorderly conduct, as acts of domestic abuse and as a repeater, and one count of felony bail jumping. The charges stemmed from two separate confrontations that Ratliff had with his former spouse and children. One of the confrontations occurred while Ratliff was out on bail. The circuit court imposed an aggregate sentence of nine years of imprisonment, consisting of five years of initial confinement followed by four years of extended supervision. These no-merit appeals follow.

The no-merit report first addresses whether Ratliff's guilty pleas were knowingly, voluntarily, and intelligently entered. The record shows that the circuit court engaged in a colloquy with Ratliff that satisfied the applicable requirements of WIS. STAT. § 971.08(1)(a) and *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906.² In addition, a signed plea questionnaire and waiver of rights form was entered into the record. That form is competent evidence of a valid plea. See *State v. Moederndorfer*, 141 Wis. 2d 823, 827-29, 416 N.W.2d 627 (Ct. App. 1987). We agree with counsel that a challenge to the entry of Ratliff's guilty pleas would lack arguable merit.

The no-merit report also addresses whether the circuit court properly exercised its discretion at sentencing.³ 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

² There is one exception to this. The circuit court failed to provide the deportation warning required by WIS. STAT. § 971.08(1)(c). This failure does not present a potentially meritorious issue for appeal, however, as there is no indication that Ratliff's pleas are likely to result in his deportation, exclusion from admission to this country, or denial of naturalization. Sec. 971.08(2).

³ In the no-merit report, counsel uses the phrase "abuse of discretion." We have not used the phrase "abuse of discretion" since 1992, when our supreme court replaced the phrase with "erroneous exercise of discretion." See, e.g., *Shirk v. Bowling, Inc.*, 2001 WI 36, ¶9 n.6, 242 Wis. 2d 153, 624 N.W.2d 375.

N.W.2d 197. In imposing its aggregate sentence of nine years of imprisonment, the court considered the seriousness of the offenses, Ratliff'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 cases, which were aggravated by Ratliff's lengthy criminal history, the aggregate sentence 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 the circuit court's decision at sentencing would lack arguable merit.

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 Matthew R. Meyer of further representation in these matters.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Matthew R. Meyer is relieved of further representation of Ratliff in these matters.

Diane M. Fremgen
Clerk of Court of Appeals