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DISTRICT II

March 2, 2016

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

2015AP2415-CRNM State of Wisconsin v. Carlos Flores, Jr. (L.C. # 2014CF591)

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

Carlos Flores, Jr., appeals from a judgment convicting him of false imprisonment, misdemeanor battery, and misdemeanor intimidation of a victim, all as acts of domestic abuse. Flores' 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). Flores 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

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

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

In June 2015, Flores pled no contest to false imprisonment, misdemeanor battery, and misdemeanor intimidation of a victim, all as acts of domestic abuse. The charges stemmed from his conduct toward his female roommate over the course of two days. According to the complaint, Flores repeatedly beat her, forcibly restrained her, and attempted to dissuade her from making a report to police afterwards. Thirteen additional counts were dismissed and read-in.² Ultimately, the circuit court sentenced Flores to six years of imprisonment on the false imprisonment charge and a total of fourteen months in jail on the misdemeanor charges.

The no-merit report first addresses whether Flores' no contest pleas were knowingly, voluntarily, and intelligently entered. The record shows that the circuit court engaged in a colloquy with Flores that satisfied the applicable requirements of WIS. STAT. § 971.08(1) and *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906. A signed plea questionnaire and waiver of rights form was entered into the record. Furthermore, the court correctly determined that the allegations in the complaint provided a sufficient factual basis for the pleas. We agree with counsel that a challenge to the entry of Flores' no contest pleas would lack arguable merit.

² The additional counts against Flores included five counts of misdemeanor battery as acts of domestic abuse, three counts of disorderly conduct as acts of domestic abuse, three counts of contact after a domestic abuse arrest, one count of fourth-degree sexual assault (for grabbing the victim's vagina during the assault), and one count of possession of an illegally obtained prescription (a search incident to arrest revealed Clonazepam tablets on Flores).

The no-merit report also addresses whether the circuit court properly exercised its discretion at sentencing. The record reveals that the 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). The court adequately discussed the facts and factors relevant to Flores' sentencing. In fashioning the sentences, the court considered the seriousness of the offenses, Flores' 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, which were aggravated by the nature of the offenses and the injuries suffered by the victim,³ the sentences do 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.⁴ 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 Joseph N. Ehmann of further representation in this matter.

Upon the foregoing reasons,

³ At sentencing, the circuit court judge remarked, "I've been doing this 19 years and this is probably one of the top three domestic abuse situations that I've ever seen as far as injuries and as far as repetitive and just the horrific nature of it."

⁴ Flores did file multiple motions to suppress evidence. However, he elected not to litigate them prior to entering his no contest pleas. Thus, we deem those issues abandoned and will not discuss them further. See *State v. Woods*, 144 Wis. 2d 710, 716, 424 N.W.2d 730 (Ct. App. 1988) (motion made but not pursued is abandoned).

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 Joseph N. Ehmann is relieved of further representation of Flores in this matter.

Diane M. Fremgen
Clerk of Court of Appeals