



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

June 28, 2016

To:

Hon. Kendall M. Kelley
Circuit Court Judge
Brown County Courthouse
P.O. Box 23600
Green Bay, WI 54305-3600

John VanderLeest
Clerk of Circuit Court
Brown County Courthouse
P.O. Box 23600
Green Bay, WI 54305-3600

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

Timothy T. O'Connell
O'Connell Law Office
P.O. Box 1625
Green Bay, WI 54305-1625

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

Luis J. Ramos 632992
Oshkosh Corr. Inst.
P.O. Box 3310
Oshkosh, WI 54903-3310

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

2016AP574-CRNM State of Wisconsin v. Luis J. Ramos (L. C. No. 2014CF1278)

Before Stark, P.J., Hruz and Seidl, JJ.

Counsel for Luis Ramos filed a no-merit report concluding there is no arguable basis for Ramos withdrawing his no-contest plea or challenging the sentence imposed for second-degree sexual assault. Ramos was advised of his right to respond to the report and has not responded. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude there is no arguable basis for appeal.

The complaint charged Ramos with second-degree sexual assault, false imprisonment, and obstructing an officer. It alleged he restrained his ex-girlfriend and sexually assaulted her,

resulting in bruising and an avulsion on her labia minor. Pursuant to a plea agreement, Ramos entered a no contest plea to the sexual assault charge, and the other charges were dismissed and read in for sentencing purposes. The parties agreed to make a joint recommendation of three years' initial confinement. The court accepted the no-contest plea and imposed a sentence of six years' initial confinement and ten years' extended supervision.

The record discloses no arguable basis for Ramos to withdraw his no-contest plea. Ramos executed a Plea Questionnaire/Waiver of Rights form in Spanish, although he indicated he understands the English language. That form, with an attached statement of the elements of all three offenses, informed Ramos of the elements, the potential penalties, and the constitutional rights he waived by pleading no contest. Although the court conducted a limited colloquy, Ramos indicated he understood his constitutional rights, the elements and potential penalties, and his appellate counsel states he cannot allege in good faith that Ramos lacked the necessary information. See *State v. Lackershire*, 2007 WI 74, ¶52, 301 Wis. 2d 418, 734 N.W.2d 23. As required by *State v. Hampton*, 2004 WI 107, ¶2, 274 Wis. 2d 379, 683 N.W.2d 14, the court informed Ramos that it was not bound by the parties' joint sentence recommendation. Ramos acknowledged that his plea would result in loss of any right to vote or possess a firearm. As required by *State v. Douangmala*, 2002 WI 62, ¶21, 253 Wis. 2d 173, 646 N.W.2d 1, the court warned Ramos that his plea could result in deportation. The record shows the plea was knowingly, voluntarily and intelligently entered. See *State v. Bangert*, 131 Wis. 2d 246, 257, 389 N.W.2d 12 (1986).

The record discloses no arguable basis for challenging the circuit court's sentencing discretion. The court could have imposed a sentence of forty years' imprisonment. A sentence well within the maximum limit is presumptively not excessive. *State v. Grindemann*, 2002 WI

App 106, ¶31, 255 Wis. 2d 632, 648 N.W.2d 507. The court appropriately considered the seriousness of the offense, Ramos’ character, and the need to protect the public. *See State v. Harris*, 119 Wis. 2d 612, 623, 350 N.W.2d 633 (1984). The court credited Ramos with his cooperation and his lack of a significant prior record, but noted Ramos’ apology was “self-focused” and represented “a completely distorted view of what occurred here, that somehow she is at fault, that somehow she’s responsible for what’s happened to you here.” The court considered no improper factors and the sentence is not arguably so excessive as to shock public sentiment. *See Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975).

Our independent review of the record discloses no other potential issue for appeal. Therefore,

IT IS ORDERED that the judgment is summarily affirmed. WIS. STAT. RULE 809.21 (2013-14).

IT IS FURTHER ORDERED that attorney Timothy O’Connell is relieved of his obligation to further represent Ramos in this matter. WIS. STAT. RULE 809.32(3) (2013-14).

Diane M. Fremgen
Clerk of Court of Appeals