



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 I/II

September 24, 2014

To:

Hon. Jeffrey A. Wagner
Circuit Court Judge
Milwaukee County Courthouse
901 N. 9th St.
Milwaukee, WI 53233

John Barrett
Clerk of Circuit Court
Room 114
821 W. State St.
Milwaukee, WI 53233

Karen A. Loebel
Asst. District Attorney
821 W. State St.
Milwaukee, WI 53233

J. Dennis Thornton
Attorney at Law
1442 N. Farwell Ave., Ste. 505
Milwaukee, WI 53202-2913

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

James L. Stanchfield
C/O Ms. Monica Bastardo
2511 E. Bolivar Ave.
St Francis, WI 53235

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

2013AP1792-CRNM State of Wisconsin v. James L. Stanchfield (L.C. #2012CF3624)

Before Reilly, J.¹

James L. Stanchfield appeals from a judgment of conviction entered upon his guilty pleas to one count each of fourth degree sexual assault, and sexual intercourse with a child 16 or older. Stanchfield's appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2011-12), and *Anders v. California*, 386 U.S. 738 (1967). Stanchfield received a copy of the report, was advised of his right to file a response, and has elected not to do so. Upon

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

consideration of the no-merit report and an independent review of the record, we conclude that the judgment may be summarily affirmed because there is no arguable merit to any issue that could be raised on appeal. *See* WIS. STAT. RULE 809.21.

In 2012, the State filed a criminal complaint and identical information charging Stanchfield with (1) on count one, child enticement, contrary to WIS. STAT. § 948.07(3), and (2) on count two, sexual intercourse with a child age 16 or older, contrary to WIS. STAT. § 948.09. Pursuant to a plea agreement, the State filed an amended information reducing the charge in count one to fourth degree sexual assault, a misdemeanor, contrary to WIS. STAT. § 940.225(3)(m). Stanchfield pled guilty to both misdemeanor charges in the amended information. At sentencing, the trial court imposed consecutive nine-month jail sentences on each count, but stayed the sentences in favor of a two-year term of probation. As a condition of probation, Stanchfield was ordered to serve forty-five days in jail.

The no-merit report first addresses whether the criminal complaint states probable cause, if it was timely issued, and whether the initial appearance was timely held. We agree with appointed counsel's analysis and conclusion that any potential claim arising from these issues is forfeited. *See State v. Kelty*, 2006 WI 101, ¶18, 294 Wis. 2d 62, 716 N.W.2d 886 (valid guilty plea waives all nonjurisdictional defects and defenses, including alleged violations of constitutional rights).²

² We note that the plea-taking court ascertained Stanchfield's understanding of this rule, and Stanchfield filed a signed addendum to his plea questionnaire acknowledging that by pleading, he was giving up his right to challenge the sufficiency of the criminal complaint and to raise defenses to the charges.

The no-merit report next analyzes the plea-taking procedures in this case and concludes that there is no arguably meritorious challenge to the entry of Stanchfield's pleas. Our review of the record—including the plea questionnaire, waiver of rights form, and plea hearing transcript—confirms that the trial court engaged in an appropriate colloquy and made the necessary advisements and findings required by 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, ¶38, 274 Wis. 2d 379, 683 N.W.2d 14. The trial court specifically ascertained Stanchfield's understanding of the essential offense elements, the plea agreement, maximum penalties, and that the court was not bound by the parties' agreement. The court specifically drew Stanchfield's attention to the completed plea questionnaire on file and ascertained that he reviewed, signed, and understood the form, including the constitutional rights waived by his no contest pleas. *See State v. Moederndorfer*, 141 Wis. 2d 823, 827-28, 416 N.W.2d 627 (Ct. App. 1987) (a completed plea questionnaire and waiver of rights form is competent evidence of a knowing, intelligent, and voluntary plea). With the parties' agreement, the trial court relied on the criminal complaint to establish a factual basis for the charges of conviction. There is no arguable merit to a claim that the court failed to fulfill its obligations or that Stanchfield's pleas were anything other than knowing, intelligent, and voluntary.

We also agree with appointed counsel's sentencing analysis and conclude that there is no arguably meritorious challenge to the trial court's sentence. Each sentence was lawful in that it did not exceed the maximum statutory penalty. In fashioning the sentence, the court considered the seriousness of the offense, the defendant's character and history, and the need to protect the public. *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. Stanchfield was afforded and exercised his right of allocution. The trial court considered probation as a first

alternative and determined that given Stanchfield's employment history and lack of a prior criminal record, probation was appropriate. In exercising its discretion, the trial court did not order Stanchfield to register as a sex offender. *See* WIS. STAT. § 973.048(1m)(a). Finally, the sentence was not so excessive or unusual as to shock the public's sentiment. *See Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). There is no meritorious challenge to the trial court's exercise of discretion at sentencing.

Our review of the record discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit report, affirms the judgment, and discharges appellate counsel of the obligation to represent Stanchfield further in this appeal.

Upon the foregoing reasons,

IT IS ORDERED that the judgment is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney J. Dennis Thornton is relieved from further representing James L. Stanchfield in this matter. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals