

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)
)
 Respondent,)
)
 v.)
)
)
)
 SERGIO PERALTA,)
)
)
 Appellant.)

No. 67513-3-1

DIVISION ONE

UNPUBLISHED OPINION

FILED: JUL 29 2013

FILED
COURT OF APPEALS DIV 1
STATE OF WASHINGTON
2013 JUL 29 AM 10:15

PER CURIAM. Sergio Peralta appeals from an order amending a judgment and sentence entered on July 2, 2009. Peralta's court-appointed attorney has filed a motion to withdraw on the ground that there is no basis for a good faith argument on review. Pursuant to State v. Theobald, 78 Wn.2d 184, 470 P.2d 188 (1970), and Anders v. California, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967), the motion to withdraw must:

[1] be accompanied by a brief referring to anything in the record that might arguably support the appeal. [2] A copy of counsel's brief should be furnished the indigent and [3] time allowed him to raise any points that he chooses; [4] the court--not counsel--then proceeds, after a full examination of all the proceedings, to decide whether the case is wholly frivolous.

State v. Theobald, 78 Wn.2d at 185 (quoting Anders v. California, 386 U.S. at 744).

This procedure has been followed. Peralta's counsel on appeal filed a brief with the motion to withdraw. Peralta was served with a copy of the brief and informed of the right to file a statement of additional grounds for review. Peralta has filed a statement of additional grounds for review.

The facts are accurately set forth in counsel's brief in support of the motion to withdraw. The court has reviewed the briefs filed in this court and has independently reviewed the entire record. The court specifically considered the following potential issues raised by counsel:

1. Whether the trial court violated Peralta's right to be present at the July 2009 entry of the agreed order amending the judgment and sentence?
2. Whether the trial court denied Peralta his right to counsel of choice?

The court also considered the following issues raised by Peralta in his statement of additional grounds on review:

1. Whether Peralta was denied his right to an accurate verbatim report of proceedings?
2. Whether appointed appellate counsel had a conflict of interest?
3. Whether Peralta was denied effective assistance of counsel at the February 18, 2009 resentencing hearing?
4. Whether Peralta voluntarily waived his rights before entry of the agreed order of judgment on the lesser included offense of second degree rape?
5. Whether the State breached the agreed judgment by seeking an amended order restoring the sexual motivation finding?

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The potential issues are wholly frivolous. Counsel's motion to withdraw is granted and the appeal is dismissed.

For the court:






