

IN THE SUPREME COURT, STATE OF WYOMING

2014 WY 109

April Term, A.D. 2014

August 28, 2014

MARKEITH WHEELER,

**Appellant
(Defendant),**

v.

THE STATE OF WYOMING,

**Appellee
(Plaintiff).**

S-14-0016

ORDER AFFIRMING THE DISTRICT COURT'S JUDGMENT AND SENTENCE

[¶1] **This matter** came before the Court upon its own motion following notification that Appellant has not filed a *pro se* brief within the time allotted by this Court. Pursuant to a plea agreement, Appellant entered unconditional guilty pleas to two counts: strangulation of a household member and battery (a third offense felony). *See* Wyo. Stat. Ann. § 6-2-509(a) and Wyo. Stat. Ann. § 6-2-501(b) & (f)(ii). This is Appellant's direct appeal from the resulting convictions. On June 4, 2014, Appellant's court-appointed appellate counsel filed a "Motion to Withdraw as Counsel," pursuant to *Anders v. California*, 386 U.S. 738, 744, 87 S.Ct. 1396, 1400, 18 L.Ed.2d 493 (1967). Following a careful review of the record and the "*Anders* brief" submitted by counsel, this Court, on June 24, 2014, entered its "Order Granting Motion for Court-Appointed Counsel to Withdraw." That order notified Appellant that the District Court's "Judgment and Sentence" would be affirmed unless, on or before August 11, 2014, Appellant filed a brief that persuaded this Court that the captioned appeal is not wholly frivolous. Taking note that Appellant, Markeith Wheeler, has not filed a brief or other pleading within the time allotted, the Court finds that the district court's "Judgment and Sentence" should be affirmed.

[¶2] This Court also finds this matter should be remanded to the district court for correction of the “Judgment and Sentence.” Although Appellant was given an adequate firearms advisement (as required by Wyo. Stat. Ann. § 7-11-507(a)), the district court’s “Judgment and Sentence” does not include a statement to that effect, as required by W.R.Cr.P. 32(b)(1)(E) and *Starrett v. State*, 2012 WY 133, ¶¶ 11-12, 19, 286 P.3d 1033, 1037-38, 1040 (Wyo. 2012). It is, therefore,

[¶3] **ORDERED** that the District Court’s December 3, 2013 “Judgment and Sentence” be, and the same hereby is, affirmed; and it is further

[¶4] **ORDERED** that this matter is remanded to the district court for entry of an amended Judgment and Sentence, which shall include the firearms advisement required by Wyo. Stat. Ann. § 7-11-507(a).

[¶5] **DATED** this 28th day of August, 2014.

BY THE COURT:

/s/

E. JAMES BURKE
Chief Justice