

IN THE SUPREME COURT, STATE OF WYOMING

2014 WY 164

October Term, A.D. 2014

December 17, 2014

JESUS MONTENEGRO-NOYOLA,

**Appellant
(Defendant),**

v.

S-14-0214

THE STATE OF WYOMING,

**Appellee
(Plaintiff).**

ORDER AFFIRMING THE DISTRICT COURT’S “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 (1) an unconditional guilty plea to one count of felony possession of cocaine and (2) an unconditional “no contest” plea to one count of felony interference with a peace officer. Wyo. Stat. Ann. § 35-7-1031(c)(ii) and § 6-5-204(b). This is Appellant’s direct appeal from the resulting convictions. On September 30, 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 October 21, 2014, entered its “Order Granting Permission for Court-Appointed Counsel to Withdraw.” That Order notified Appellant the District Court’s June 3, 2014, “Sentence” would be affirmed unless, on or before December 8, 2014, Appellant filed a brief that persuaded this Court the captioned appeal is not wholly frivolous. Now, taking note that Appellant, Jesus Montenegro-Noyola, has not filed a brief or other pleading within the time allotted, the Court finds that the district court’s “Sentence” should be affirmed, with the following correction. Although Appellant was given an adequate firearms advisement (as required by Wyo. Stat. Ann. § 7-11-507(a)), neither the district court’s “Judgment Upon Plea of Guilty” nor its “Sentence” includes a reference to the firearms advisement, contrary to 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,

[¶2] **ORDERED** that the district court's June 3, 2014, "Sentence" be, and the same hereby is, affirmed, subject to this correction: the district court shall enter an amended "Sentence," which shall include the firearms advisement required by Wyo. Stat. Ann. § 7-11-507(a) and W.R.Cr.P. 32(b)(1)(E).

[¶3] **DATED** this 17th day of December, 2014.

BY THE COURT:

/s/

E. JAMES BURKE
Chief Justice