

IN THE SUPREME COURT, STATE OF WYOMING

2013 WY 119

April Term, A.D. 2013

October 2, 2013

JAMES EDWIN MEDINA,

**Appellant
(Defendant),**

v.

THE STATE OF WYOMING,

**Appellee
(Plaintiff).**

S-13-0080

**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. Appellant entered an unconditional guilty plea to one count of sexual abuse of a minor in the second degree. Wyo. Stat. Ann. § 6-2-315(a)(ii). The district court imposed a sentence of 18 to 20 years. Appellant filed this appeal to challenge the district court's "Judgment and Sentence." On July 18, 2013, 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 appellate counsel, this Court, on August 6, 2013, entered its "Order Granting Permission 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 September 23, 2013, Appellant filed a brief that persuaded this Court that the captioned appeal is not wholly frivolous. That order also stated:

***** regardless of whether appellant files such a brief, this Court will correct a discrepancy between the orally pronounced sentence and the written sentence. At the

sentencing hearing in this matter, the district court stated that it was “ordering the hundred dollars in public defender fees.” (Sentencing Transcript, p. 17) Despite that, the written judgment requires appellant to pay \$400 in Public Defender fees. “A long-recognized rule of this Court is that where there is conflict between the sentence as articulated at sentencing, and the written sentence, the oral sentence prevails.” *Pinker v. State*, 2008 WY 86, ¶ 7, 188 P.3d 571, 574 (Wyo. 2008). Thus, this Court will, at the conclusion of this matter, order the district court to correct this discrepancy to conform to the oral pronouncement.

Now, taking note that Appellant, James Edwin Medina, 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, subject to the correction noted above. It is, therefore,

[¶2] **ORDERED** that the district court’s January 29, 2013, “Judgment and Sentence” be, and the same hereby is, affirmed, subject to correction below; and it is further

[¶3] **ORDERED** that this matter is remanded to the district court for entry of an order correcting the “Judgment and Sentence” so that the Appellant is required to pay \$100 in Public Defender fees.

[¶4] **DATED** this 2nd day of October, 2013.

BY THE COURT:

/s/

MARILYN S. KITE
Chief Justice