

IN THE SUPREME COURT, STATE OF WYOMING

2019 WY 48

April Term, A.D. 2019

May 8, 2019

JOSHUA ROY DELBERT BLACK,

**Appellant
(Defendant),**

v.

S-19-0013

THE STATE OF WYOMING,

**Appellee
(Plaintiff).**

ORDER AFFIRMING THE DISTRICT COURT’S JUDGMENT AND SENTENCE

[¶ 1] **This matter** came before the Court upon its own motion. Pursuant to a plea agreement, Appellant entered an unconditional “no contest” plea to one count of aggravated assault and battery. Wyo.Stat. Ann. § 6-2-502(a)(i). The district court imposed a sentence of 6.5 to 10 years. Appellant filed this appeal to challenge the district court’s November 20, 2018, “Judgment and Sentence.”

[¶ 2] On March 8, 2019, 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). The next day, this Court entered an “Order Granting Motion for Extension of Time to File *Pro Se* Brief.” This Court ordered that Appellant “may file with this Court a *pro se* brief specifying the issues he would like this Court to consider in this appeal.” This Court also provided notice that, after the time for filing a *pro se* brief expired, this Court would “make its ruling on counsel’s motion to withdraw and, if appropriate, make a final decision on this appeal.” Before that order was entered, Appellant prepared and served a “Supplemental Brief of Appellant & Affidavit to Support,” which was filed herein March 11, 2019. Pursuant to this Court’s order, any further *pro se* briefing was due for filing on or before April 22, 2019. Appellant did not file any further *pro se* briefing in the time allotted.

[¶ 3] Now, following a careful review of appellate counsel’s “*Anders* brief,” the *pro se* “Supplemental Brief of Appellant & Affidavit to Support,” and the record, this Court finds that appellate counsel’s motion to withdraw should be granted and the district court’s “Judgment and Sentence” should be affirmed. Regarding the arguments in the Supplemental Brief of Appellant, this Court notes Appellant’s unconditional “no contest” plea served to waive all non-jurisdictional defenses. See *Kitzke v. State*, 2002 WY 147, ¶¶ 8-9, 55 P.3d 696, 699 (Wyo. 2002). It is, therefore,

[¶ 4] **ORDERED** that the Wyoming Public Defender’s Office, court-appointed counsel for Appellant, Joshua Roy Delbert Black, is hereby permitted to withdraw as counsel of record for Appellant; and it is further

[¶ 5] **ORDERED** that the district court’s November 20, 2018, “Judgment and Sentence” be, and the same hereby is, affirmed.

[¶ 6] **DATED** this 8th day of May, 2019.

BY THE COURT:

/s/

MICHAEL K. DAVIS
Chief Justice