

IN THE SUPREME COURT, STATE OF WYOMING

2022 WY 69

April Term, A.D. 2022

June 8, 2022

BRENNAN THOMAS BAKER,

**Appellant
(Defendant),**

v.

THE STATE OF WYOMING,

**Appellee
(Plaintiff).**

S-22-0023

ORDER AFFIRMING THE DISTRICT COURT'S JUDGMENT AND SENTENCE

[¶ 1] **This matter** came before the Court upon its own motion after Appellant filed a *pro se* brief. Pursuant to a plea agreement, Appellant entered an unconditional no contest (*nolo contendere*) plea to one felony count of unauthorized use of personal identifying information. Wyo. Stat. Ann. § 6-3-901(a) & (c)(ii). The district court imposed a two and a half to three-year sentence. Appellant filed this appeal to challenge the district court's November 19, 2021, Judgment Upon Plea of *Nolo Contendere* and Sentence.

[¶ 2] On April 11, 2022, Appellant's court-appointed appellate counsel e-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). This Court subsequently entered an Order Granting Motion for Extension of Time to File *Pro Se* Brief. This Court permitted Appellant to file a *pro se* brief specifying the issues for the 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. Appellant filed his Pro Se Brief for Violation of Speedy Trial May 23, 2022.

[¶ 3] Now, following a careful review of that brief, the record and the *Anders* brief submitted by appellate counsel, this Court finds that appellate counsel's motion to

withdraw should be granted and the district court's judgment and sentence should be affirmed. This Court notes that any speedy trial claim is non-jurisdictional and was waived by Appellant's unconditional no contest plea. *Kitzke v. State*, 2002 WY 147, ¶¶ 8-9, 55 P.3d 696, 699 (Wyo. 2002) ("Analysis of these claims must begin with the observation that an unconditional guilty plea waives all non-jurisdictional defenses, including claims based on the alleged deprivation of constitutional rights. The only claims not waived by an unconditional guilty plea are those that address the jurisdiction of the court or the voluntariness of the plea. . . . Non-jurisdictional defects include the use of inadmissible evidence, the use of unlawfully obtained statements, a claim that a grand jury was improperly convened and conducted, and a claim of violation of the right to speedy trial."(citations omitted)); *Major v. State*, 2004 WY 4, ¶ 11, 83 P.3d 468, 472 (Wyo. 2004) ("For purposes of appellate review, a nolo contendere plea is functionally equivalent to a guilty plea.") It is, therefore,

[¶ 4] **ORDERED** that the Wyoming Public Defender's Office, court-appointed counsel for Appellant Brennan Thomas Baker, is hereby permitted to withdraw as counsel of record for Appellant; and it is further

[¶ 5] **ORDERED** that the Campbell County District Court's November 19, 2021, Judgment Upon Plea of *Nolo Contendere* and Sentence be, and the same hereby is, affirmed.

[¶ 6] **DATED** this 8th day of June, 2022.

BY THE COURT:

/s/

KATE M. FOX
Chief Justice