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**DISTRICT II**

October 11, 2023

To:

Hon. Dale L. English  
Circuit Court Judge  
Electronic Notice

Ramona Geib  
Clerk of Circuit Court  
Fond du Lac County Courthouse  
Electronic Notice

George Tauscheck  
Electronic Notice

Jennifer L. Vandermeuse  
Electronic Notice

Torry Jay-Jack Howard #702685  
Stanley Correctional Inst.  
100 Corrections Dr.  
Stanley, WI 54768

You are hereby notified that the Court has entered the following opinion and order:

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2022AP1675-CRNM      State of Wisconsin v. Torry Jay-Jack Howard (L.C. # 2020CF79)

Before Neubauer, Grogan and Lazar, JJ.

**Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).**

Torry Jay-Jack Howard appeals from a judgment of conviction and an order denying his postconviction motion. His appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2021-22)<sup>1</sup> and *Anders v. California*, 386 U.S. 738 (1967). Howard received a copy of the report, was advised of his right to file a response, and has elected not to do so. Upon consideration of the report and an independent review of the record, we conclude there are no

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

issues with arguable merit for appeal. We summarily affirm the judgment and order. *See* WIS. STAT. RULE 809.21.

Howard was convicted following no contest pleas to delivering heroin (three grams or less) and possession with intent to deliver cocaine (more than forty grams) as party to a crime. The first charge stemmed from a controlled buy. The second charge stemmed from a later traffic stop in which drugs were found. Several additional charges were dismissed and read in.<sup>2</sup> For his actions, the circuit court imposed an aggregate sentence of thirteen years of initial confinement and eight years of extended supervision.

Prior to entering his pleas, Howard moved to suppress the evidence found during the traffic stop, arguing that the stop was unlawful. Following a hearing on the matter, the circuit court denied the motion. The court concluded that the stop was lawful based on such facts as (1) the location of the stop, which was associated with past controlled buys; (2) electronic surveillance, which placed a phone associated with past controlled buys in the vehicle; and (3) a tipster who indicated that Howard—the observed seller in past controlled buys—was in the vehicle.

After sentencing, Howard file a postconviction motion for sentence modification. In it, he complained that his sentence was unduly harsh when compared to that of his co-defendant, who was found in the vehicle with him. Following another hearing, the circuit court denied the motion. The court noted substantial differences between Howard and the co-defendant to justify

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<sup>2</sup> The dismissed and read-in charges were delivering heroin (three grams or less), delivering cocaine (more than one gram but not more than five grams), and possession with intent to deliver heroin (more than fifty grams) as party to a crime.

the disparity in sentences. For example, Howard had a prior conviction for delivering drugs, while the co-defendant did not. Also, police found a large amount of drugs on Howard's person, suggesting a higher level of involvement.

The no-merit report addresses (1) whether the circuit court erred in denying the suppression motion; (2) whether Howard's pleas were entered knowingly, voluntarily, and intelligently; (3) whether the court properly exercised its discretion at sentencing; and (4) whether the court erred in denying the postconviction motion. This court is satisfied that the no-merit report correctly analyzes the issues it raises as without merit, and we will not discuss them further.

Our review of the record discloses no other potential issues for appeal.<sup>3</sup> Accordingly, this court accepts the no-merit report, affirms the judgment and order, and discharges appellate counsel of the obligation to represent Howard further in this appeal.

Upon the foregoing reasons,

IT IS ORDERED that the judgment and order of the circuit court are summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney George Tauscheck is relieved of further representation of Torrey Jay-Jack Howard in this appeal. *See* WIS. STAT. RULE 809.32(3).

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<sup>3</sup> We note that Howard's pleas forfeited the right to raise other nonjurisdictional defects and defenses, including claimed violations of constitutional rights. *See State v. Kelty*, 2006 WI 101, ¶18 & n.11, 294 Wis. 2d 62, 716 N.W.2d 886; *see also State v. Lasky*, 2002 WI App 126, ¶11, 254 Wis. 2d 789, 646 N.W.2d 53.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

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*Samuel A. Christensen*  
*Clerk of Court of Appeals*