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**DISTRICT II**

July 3, 2024

To:

Hon. Peter L. Grimm  
Circuit Court Judge  
Electronic Notice

Hon. Laura J. Lavey  
Circuit Court Judge  
Electronic Notice

Michelle Weber  
Clerk of Circuit Court  
Fond du Lac County Courthouse  
Electronic Notice

Carlos Bailey  
Electronic Notice

Wesley Kottke  
Electronic Notice

Kajuan Terrell Robertson, #368288  
Racine Correctional Inst.  
P.O. Box 900  
Sturtevant, WI 53177-0900

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

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2022AP1974-CRNM      State of Wisconsin v. Kajuan Terrell Robertson  
(L.C. #2020CM340)

Before Gundrum, P.J.<sup>1</sup>

**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).**

Kajuan Terrell Robertson appeals a judgment of conviction for misdemeanor criminal damage to property as a repeater as well as an order denying his postconviction motion. Robertson's appointed appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 and *Anders v. California*, 386 U.S. 738 (1967). Robertson was notified of his right

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<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(f) (2021-22). All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

to respond to the no-merit report but has not filed a response. Upon consideration of the no-merit report, and following an independent review of the record as mandated by *Anders* and RULE 809.32, we conclude there is no arguable merit to any issue that could be raised on appeal. We therefore summarily affirm the judgment and order. *See* WIS. STAT. RULE 809.21(1).

Robertson was charged with three misdemeanor counts that were resolved by plea agreement. In exchange for Robertson's guilty plea to the crime of conviction, the State agreed to move to dismiss and read in the remaining counts and to recommend six months' jail consecutive to any other sentence. The defense was free to argue. The circuit court accepted Robertson's plea following a plea colloquy and he was sentenced to twelve months in jail, consecutive to any other sentence.

Robertson filed a *Bangert* motion,<sup>2</sup> alleging the plea colloquy was deficient because the circuit court failed to advise Robertson that it was not bound at sentencing by the terms of the plea agreement. Robertson specifically alleged that he was not aware that the court was free to disregard the State's sentencing recommendation. The court held a *Machner* hearing, at which Robertson and his trial counsel testified.<sup>3</sup> The court found credible trial counsel's testimony that he had specifically advised Robertson that "the judge can do anything from 0 to 2 years." As a result, the court concluded that Robertson's plea was knowing, intelligent and voluntary despite the defect in the plea colloquy.

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<sup>2</sup> *See State v. Bangert*, 131 Wis. 2d 246, 389 N.W.2d 12 (1986).

<sup>3</sup> *See State v. Machner*, 92 Wis. 2d 797, 285 N.W.2d 905 (Ct. App. 1979). The Hon. Peter L. Grimm presided over the proceedings through sentencing. The Hon. Laura J. Lavey presided over the postconviction proceedings.

The no-merit report addresses whether there would be any nonfrivolous basis to challenge the knowing, intelligent and voluntary nature of Robertson’s guilty plea; the circuit court’s credibility determination during the postconviction proceedings; or the court’s exercise of its sentencing discretion, including the basis for the repeater penalty enhancer and the court’s decision to exceed the prosecutor’s recommendation. The no-merit report also states that counsel is unaware of any information that might qualify as a new factor or constitute inaccurate information. Our review of the appellate record satisfies us that the no-merit report sufficiently analyzes these issues and properly concludes that any challenge predicated upon them would lack arguable merit. Our independent review of the record discloses no other potentially meritorious issues for appeal.

Therefore,

IT IS ORDERED that the judgment and order are summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Carlos Bailey is relieved from further representing Kajuan Terrell Robertson in this appeal. *See* WIS. STAT. RULE 809.32(3).

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*