**COURT OF APPEALS**
**DECISION**
**DATED AND RELEASED**

April 30, 1996

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. *See* § 808.10 and RULE 809.62, STATS.

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

**No. 95-2685-CR-NM**

**STATE OF WISCONSIN** **IN COURT OF APPEALS**
**DISTRICT I**

**STATE OF WISCONSIN,**

**Plaintiff-Respondent,**

**v.**

**MICHAEL DAVIS,**

**Defendant-Appellant.**

APPEAL from a judgment of the circuit court for Milwaukee County: PATRICIA D. McMAHON, Judge. *Affirmed*.

Before Wedemeyer, P.J., Fine and Schudson, JJ.

PER CURIAM. Michael Davis appeals from a judgment of conviction for possession of a firearm by a felon, for which he was sentenced to two years imprisonment. Davis' appellate counsel has filed a no merit report pursuant to RULE 809.32, STATS., and ***Anders v. California,*** 386 U.S. 738 (1967).

Davis received a copy of the report and was advised of his right to file a response. He has elected not to do so. Upon consideration of the report and an independent review of the record, we conclude that there is no arguable merit to any issue that could be raised on appeal. Therefore, we affirm the judgment of conviction and relieve Attorney Brian Findley of further representing Davis in this matter.

The no merit report carefully addresses a number of possible issues on appeal. It first discusses the sufficiency of the evidence. An appellate court may not reverse a conviction unless the evidence, viewed most favorably to the state and the conviction, is so insufficient in probative value and force that it can be said as a matter of law that no trier of fact, acting reasonably, could have found guilt beyond a reasonable doubt. Here, the police officer's testimony concerning Davis and his distinctive jacket negates any sufficiency challenge of arguable merit.

Next, the no merit report addresses a possible argument concerning ineffective assistance of trial counsel. Our reading of the record discloses no basis for an ineffective assistance claim. Further, nothing in the record supports Davis' apparent claim that trial counsel should have investigated more deeply than he did.

Third, the report discusses the propriety of the court's restricting Davis' cross-examination of the police officer at the preliminary hearing. We are unconvinced that such restriction would provide any basis for an issue of arguable merit on appeal. Counsel may be prohibited from cross-examining a

witness with questions aimed at credibility and general trustworthiness. *See* ***State v. Russo,*** 101 Wis.2d 206, 214, 303 N.W.2d 846, 850 (Ct. App. 1981). As the circuit court ruled in Davis' motion for a new preliminary hearing,[1] the line of questioning pursued at the preliminary hearing strayed into discovery, which is impermissible. *See* ***State ex rel. Huser v. Rasmussen,*** 84 Wis.2d 600, 614-15, 267 N.W.2d 285, 292-93 (1978). We conclude that no issue of arguable merit could arise on this point.

Fourth, the no merit report addresses part of Davis' testimony excluded as hearsay. We are persuaded that the statement was neither admissible nor relevant.

Finally, the report addresses the severity of Davis' sentence. The circuit court properly addressed the primary factors. *See* ***State v. Harris,*** 119 Wis.2d 612, 623, 350 N.W.2d 633, 639 (1984). Given Davis' substantial prior record, the circuit court cannot be said to have misused its discretion in imposing the maximum sentence.

Our review of the record reveals no other possible issues of arguable merit. Accordingly, we affirm the judgment of conviction, and we relieve Attorney Brian Findley of further representing Davis in this matter.

*By the Court.*—Judgment affirmed.

[1] The no merit report erroneously indicates that trial counsel did not seek a new preliminary hearing before trial.