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DISTRICT I

October 16, 2013

To:

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

2012AP2072-CRNM State of Wisconsin v. Charles L. Bond (L.C. #2010CF63)

Before Curley, P.J.

By order dated June 5, 2013, this court directed Attorney Crystal Saltzwadel, appellate counsel for Charles L. Bond, to file a supplemental no-merit report by July 5, 2013, regarding three issues or, alternatively, to seek voluntary dismissal if she concluded that the issues were arguably meritorious. Attorney Saltzwadel did not comply, and, after we entered several additional orders and extensions, we directed her, by order dated October 7, 2013, to file a response no later than October 14, 2013, or to pay a sanction of \$25 per day commencing on

October 15, 2013, until she complied. We also requested a response from the Office of the State Public Defender.

On October 15, 2013, this court received a motion to voluntarily dismiss the no-merit appeal reflecting Attorney Saltzwadel's conclusion that the case presents at least one issue of arguable merit. A no-merit proceeding is appropriate only if counsel is convinced that an appeal would be wholly frivolous. *McCoy v. Court of Appeals*, 486 U.S. 429, 437 (1988). Further, the court is advised by the Office of the State Public Defender that it concludes successor counsel must be appointed for Bond under the circumstances. The court will therefore grant the motion to voluntarily dismiss the no-merit appeal and will extend the deadline for filing a postconviction motion or a notice of appeal until sixty days from the date that successor counsel is appointed.

The court notes that Attorney Saltzwadel's motion to voluntarily dismiss the no-merit appeal is accompanied by an affidavit of mailing reflecting that she placed the motion in the mail on Friday, October 11, 2013. Generally, service is complete upon mailing. *See* WIS. STAT. § 801.14(2) (2011-12). Our order, however, directed counsel to file, not serve, a response in this matter by the October 14, 2013, deadline. Nonetheless, in light of the date of service and in light of the postal holiday on October 14, 2013, the court will relieve Attorney Saltzwadel of the financial sanction imposed by our order of October 7, 2013.

IT IS ORDERED that Attorney Crystal Saltzwadel's motion to voluntarily dismiss this matter is accepted as filed. For the reasons discussed above, Attorney Saltzwadel is not required to pay a financial sanction.

IT IS FURTHER ORDERED that the no-merit report is rejected, and this matter is voluntarily dismissed without prejudice.

IT IS FURTHER ORDERED that this matter is referred to the Office of the State Public Defender for the appointment of new counsel. The state public defender shall, within thirty days of the date of this order, notify this court of the identity of successor postconviction and appellate counsel and shall provide successor counsel with a copy of this order.

IT IS FURTHER ORDERED that the deadline for Bond to file a postconviction motion or a notice of appeal is extended through the date sixty days after successor counsel is appointed.

IT IS FURTHER ORDERED that Attorney Saltzwadel is relieved from further representation of Bond effective on the date that this court receives notification from the Office of the State Public Defender that successor postconviction and appellate counsel has been appointed in this matter.

Diane M. Fremgen
Clerk of Court of Appeals