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DISTRICT I

October 23, 2013

To:

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

2013AP1245-CRNM State of Wisconsin v. Mariece Lawaun Marks (L.C. #2012CF1118)

Before Curley, P.J., Fine and Kessler JJ.

Mariece Lawaun Marks appeals a judgment convicting him of one count of possession of cocaine with intent to deliver, more than one gram but no more than five grams. Appellate counsel, Helen M. Mullison, filed a no-merit report seeking to withdraw. *See* WIS. STAT. RULE 809.32 (2011-12),[1] and ***Anders v. California***, 386 U.S. 738, 744 (1967). Marks was informed of his right to file a response, but he has not responded. After reviewing the no-merit report and

[1] All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

conducting an independent review of the record, we agree with counsel's assessment that there are no arguably meritorious appellate issues. Therefore, we summarily affirm the judgment of conviction. *See* WIS. STAT. RULE 809.21.

The no-merit report first addresses whether Marks' guilty plea was knowingly, intelligently, and voluntarily entered. The circuit court addressed whether Marks understood the elements of the charge against him, the potential punishment he faced, and the constitutional rights he was waiving by entering a plea. *See* WIS. STAT. § 971.08, and ***State v. Bangert***, 131 Wis. 2d 246, 266-72, 389 N.W.2d 12 (1986). The circuit court also ascertained that Marks had gone over a guilty plea questionnaire and waiver-of-rights form with his attorney and understood the information on that form. *See* ***State v. Hampton***, 2004 WI 107, ¶38, 274 Wis. 2d 379, 683 N.W.2d 14. The circuit court informed Marks that he could be deported after conviction if he was not a United States citizen. Marks agreed that the facts alleged in the complaint were true and that they provided a factual basis for the plea. In light of these circumstances, there would be no arguable merit to an appellate argument that the plea was not knowingly, intelligently, and voluntarily entered.

The no-merit report next addresses whether there would be arguable merit to a claim that the circuit court misused its discretion when it sentenced Marks to fifty-four months of imprisonment, with eighteen months of initial confinement and thirty-six months of extended supervision, to be served consecutively to any other sentence Marks was serving. In framing its sentence, the circuit court considered the primary sentencing factors, which are the protection of the community, the gravity of the offense and character of the defendant. It also considered various other factors pertinent to a sentencing determination, noting in particular the negative consequences of selling drugs on the children in the community. The circuit court considered the

offense to be aggravated because Marks was on supervision when he committed the crime. The circuit court explained its application of the various sentencing considerations in accordance with the framework set forth in ***State v. Gallion***, 2004 WI 42, ¶¶39-46, 270 Wis. 2d 535, 678 N.W.2d 197. Therefore, there would be no arguable merit to a challenge to the sentence on appeal.

Our independent review of the record reveals no arguable basis for reversing the judgment of conviction. Therefore, we conclude that further appellate proceedings would be wholly frivolous within the meaning of ***Anders*** and WIS. STAT. RULE 809.32.

IT IS ORDERED that the judgment of conviction is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Helen M. Mullison is relieved of any further representation of Marks in this matter. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals