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February 17, 2014

To:

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

2013AP699-CRNM State of Wisconsin v. Michael Grandberry (L.C. #2010CF4054)

Before Blanchard, P.J., Sherman and Kloppenburg, JJ.

Attorney Marcella De Peters, appointed counsel for Michael Grandberry, has filed a no-merit report pursuant to *Anders v. California*, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32 (2011-12).¹ Counsel provided Grandberry with a copy of the report, and both counsel and this court advised him of his right to file a response. Grandberry has not responded. We conclude

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

that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21(1). After our independent review of the record, we conclude there is no arguable merit to any issue that could be raised on appeal.

Pursuant to a plea agreement, Grandberry pled guilty to one count of first-degree reckless homicide. The court imposed a sentence of twenty-nine years of initial confinement and ten years of extended supervision.

After originally filing a no-merit report in appeal No. 2012AP1043-CRNM, Grandberry's attorney eventually filed a postconviction motion. Grandberry prevailed on two issues related to sentencing, but the court denied his motion to withdraw his plea.

The no-merit report addresses whether Grandberry's plea was entered knowingly, voluntarily, and intelligently. The circuit court denied his plea withdrawal motion after receiving the court reporter's corrections to the transcript. Those corrections clarify what the court said regarding the maximum penalty, which was the basis for Grandberry's postconviction motion. It would now be frivolous to argue that the plea colloquy was defective under *State v. Bangert*, 131 Wis. 2d 246, 255-73, 389 N.W.2d 12 (1986) and WIS. STAT. § 971.08.

Grandberry has not preserved any other issues for appellate review by filing a postconviction motion. *See* WIS. STAT. § 974.02(2) and *State v. Monje*, 109 Wis. 2d 138, 153-153a, 327 N.W.2d 641 (1982) (per curiam opinion on motion for reconsideration). Nonetheless, we discuss the remainder of the record to determine whether there are other nonfrivolous issues that counsel should be required to have included in the postconviction motion.

The plea colloquy sufficiently complied with the requirements of *Bangert*, 131 Wis. 2d at 255-73 and WIS. STAT. § 971.08 relating to the nature of the charge, the rights Grandberry was waiving, and other matters. The record shows no other ground to withdraw the plea. There is no arguable merit to this issue.

The no-merit report addresses whether the court erroneously exercised its sentencing discretion. The standards for the circuit court and this court on sentencing issues are well established and need not be repeated here. See *State v. Gallion*, 2004 WI 42, ¶¶17-51, 270 Wis. 2d 535, 678 N.W.2d 197. In this case, the court considered appropriate factors, did not consider improper factors, and reached a reasonable result. There is no arguable merit to this issue.

Our review of the record discloses no other potential issues for appeal.

Therefore,

IT IS ORDERED that the judgment of conviction and order denying postconviction relief are summarily affirmed. See WIS. STAT. RULE 809.21(1).

IT IS FURTHER ORDERED that Attorney De Peters is relieved of further representation of Grandberry in this matter. See WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals