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**DISTRICT IV**

November 18, 2014

To:

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

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2013AP1553-CRNM	State of Wisconsin v. Jonathan Perry Blaser (L.C. # 2010CF50)
2013AP1554-CRNM	State of Wisconsin v. Jonathan Perry Blaser (L.C. # 2010CF59)

Before Lundsten, Sherman and Kloppenburg, JJ.

Attorney Steven Grunder, appointed counsel for appellant Jonathan Blaser, has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2011-12)<sup>1</sup> and *Anders v. California*, 386 U.S. 738, 744 (1967). The no-merit report addresses whether there would be arguable merit to a challenge to the sentences imposed by the circuit court following revocation of Blaser's probation in these two cases. Blaser was sent a copy of the

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

report, but has not filed a response. Upon independently reviewing the entire record, as well as the no-merit report, we agree with counsel's assessment that there are no arguably meritorious appellate issues.

In October 2010, Blaser was convicted of possession of narcotics and felony bail-jumping. The circuit court imposed concurrent three-year terms of probation, sentence withheld. In October 2012, the Department of Corrections (DOC) revoked Blaser's probation as to both cases. At sentencing after revocation, the court sentenced Blaser to a total of three years of initial confinement followed by two years of extended supervision.

Blaser's appeals from the sentences following revocation do not bring the underlying conviction before us. See *State v. Drake*, 184 Wis. 2d 396, 399, 515 N.W.2d 923 (Ct. App. 1994). Additionally, the validity of the probation revocation is not before us in this appeal. See *State ex rel. Flowers v. DHSS*, 81 Wis. 2d 376, 384, 260 N.W.2d 727 (1978) (probation revocation independent from underlying criminal action); see also *State ex rel. Johnson v. Cady*, 50 Wis. 2d 540, 550, 185 N.W.2d 306 (1971) (judicial review of probation revocation is by petition for certiorari in circuit court). The only potential appellate issues at this point in the proceedings relate to sentencing following revocation.

Our review of a sentence determination begins "with the presumption that the [circuit] court acted reasonably, and the defendant must show some unreasonable or unjustifiable basis in the record for the sentence complained of."<sup>2</sup> *State v. Krueger*, 119 Wis. 2d 327, 336,

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<sup>2</sup> A circuit court's duty at sentencing after revocation is the same as its duty at an original sentencing. See *State v. Wegner*, 2000 WI App 231, ¶7 n.1, 239 Wis. 2d 96, 619 N.W.2d 289.

351 N.W.2d 738 (Ct. App. 1984). Here, following revocation, the State and the DOC recommended a total sentence of three years of initial confinement and two years of extended supervision. The defense recommended a total of two years of initial confinement and three years of extended supervision. Blaser personally addressed the court, stating that he believed two years in prison would be sufficient for him to stabilize on prescription medications and off of illegal drugs.

The court explained that it considered facts relevant to the standard sentencing factors and objectives, including Blaser's character and criminal history, the need to protect the public, and the gravity of the offenses. *See State v. Gallion*, 2004 WI 42, ¶¶39-46, 270 Wis. 2d 535, 678 N.W.2d 197. The court sentenced Blaser to a total of three years of initial confinement and two years of extended supervision. The sentences were within the applicable penalty range. They were not so excessive or unduly harsh as to shock the conscience. *See State v. Grindemann*, 2002 WI App 106, ¶31, 255 Wis. 2d 632, 648 N.W.2d 507. Additionally, the court granted Blaser 185 days of sentence credit as to the possession of narcotics conviction, and 276 days of sentence credit as to the bail-jumping conviction, on counsel's stipulation. We discern no erroneous exercise of the court's sentencing discretion.

Upon our independent review of the record, we have found no other arguable basis for reversing the judgment of conviction. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

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

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

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*Diane M. Fremgen*  
*Clerk of Court of Appeals*