



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT IV

December 12, 2014

To:

Hon. Patrick J. Fiedler
Circuit Court Judge
215 South Hamilton, Br 8, Rm 8103
Madison, WI 53703

Stacy Taeuber
Law Offices of Stacy Taeuber
P.O. Box 259938
Madison, WI 53725

Carlo Esqueda
Clerk of Circuit Court
Room 1000
215 South Hamilton
Madison, WI 53703

Gregory M. Weber
Assistant Attorney General
P.O. Box 7857
Madison, WI 53707-7857

Ismael R. Ozanne
District Attorney
Rm. 3000
215 South Hamilton
Madison, WI 53703

Eddie Blake 521816
Fox Lake Corr. Inst.
P.O. Box 200
Fox Lake, WI 53933-0200

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

2013AP1041-CRNM State of Wisconsin v. Eddie Blake (L.C. # 2006CF2603)

Before Lundsten, Higginbotham and Kloppenburg, JJ.

Attorney Stacy Taeuber has filed a no-merit report seeking to withdraw as counsel for appellant Eddie Blake. *See* WIS. STAT. RULE 809.32 (2011-12). The no-merit report addresses whether there would be arguable merit to a challenge to the jury verdict finding Blake guilty of robbery or to the sentence imposed by the circuit court. However, in response to an order by this court to obtain a missing transcript, Attorney Taeuber now indicates that she is unable to determine that further proceedings would be wholly frivolous. Accordingly, we reject the no-merit report.

After our initial review of the no-merit report and record, we issued an order noting that no transcript had been prepared of the jury selection conducted on October 29, 2007. We ordered production of that transcript and a supplement to the record. We also directed Attorney Taeuber to review the transcript and to file a supplemental letter indicating whether that review changed her assessment of whether there are any arguably meritorious appellate issues.

Attorney Taeuber has now informed us that she has exhausted efforts to procure a transcript of the jury selection, and that it is impossible to do so. Attorney Taeuber explains that the court reporter's notes cannot be located. Additionally, Attorney Taeuber indicates that she is unable to determine whether there would be arguable merit to any issues arising from the jury selection. Attorney Taeuber states her position that a reconstruction of the jury selection would be impossible, and that the proper remedy is a new trial. *See State v. Perry*, 136 Wis. 2d 92, 99-102, 401 N.W.2d 748 (1987). We express no opinion regarding the need for or possibility of reconstructing a record of the jury selection or whether an appropriate remedy is a new trial. Rather, we dismiss this no-merit appeal and extend the time for Blake to seek relief in the circuit court.

Therefore,

IT IS ORDERED that the no-merit report is rejected, and this appeal is dismissed without prejudice. Attorney Taeuber shall continue to represent Blake.

IT IS FURTHER ORDERED that the time for Blake to file a postconviction motion is extended to February 3, 2015.

Diane M. Fremgen
Clerk of Court of Appeals