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**DISTRICT III**

January 27, 2015

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

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2014AP2363-CRNM      State of Wisconsin v. DeAndre D. Harvey  
2014AP2364-CRNM      (L. C. Nos. 2012CM802, 2012CM1130)

Before Stark, J.<sup>1</sup>

Counsel for DeAndre Harvey filed a no-merit report concluding there is no arguable basis for Harvey to challenge the sentences imposed after revocation of his probation. Harvey was advised of his right to respond to the report and has not responded. Upon this court's

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<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(f) (2011-12). All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), no issue of arguable merit appears.

In case No. 2012CM802, Harvey entered a no-contest plea to one count of criminal damage to property as a domestic abuse repeater. In 2012CM1130, Harvey pled no contest to one count of battery as a domestic abuse repeater. The court withheld sentence in each case and placed Harvey on probation for twelve months. When Harvey's probation was revoked in both cases, the court imposed consecutive sentences totaling thirty months' initial confinement and eighteen months' extended supervision.

Harvey filed a postconviction motion, alleging the terms of his initial confinement and extended supervision exceeded those authorized by law in light of several unpublished opinions. After this court clarified WIS. STAT. § 973.01 as it applies to enhanced sentences in misdemeanor cases in *State v. Lasanske*, 2014 WI App 26, ¶¶8-12, 353 Wis. 2d 280, 844 N.W.2d 417, Harvey's counsel notified the trial court of the *Lasanske* decision and the court denied the postconviction motion.

This appeal is limited to issues related to the sentences imposed after revocation of probation. See *State v. Drake*, 184 Wis. 2d 396, 397-99, 515 N.W.2d 923 (Ct. App. 1994). The record discloses no arguable basis for challenging the sentencing court's discretion. The court appropriately noted the gravity of the offenses, Harvey's character and the need to protect the public. See *State v. Harris*, 119 Wis. 2d 612, 623, 350 N.W.2d 633 (1984). The incident in case No. 2012CM1130 included Harvey kicking his wife. Regarding the incident in case No. 2012CM802, Harvey stated during allocution that he broke the car window because he wanted to make the car undriveable while he was incarcerated. The court found the damage to

the car indicated Harvey's exerting control over his wife and playing into the cycle of domestic violence and control. The court also considered the fact that Harvey committed violent acts in front of his children. The court noted Harvey's "profound rehabilitative needs" and the revocation summary's conclusion that the only option to stop Harvey's violence against his wife was to incarcerate him. The court considered no improper factors and the sentence is not arguably so excessive as to shock public sentiment. *See Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975).

Finally, the court properly denied the postconviction motion because the bifurcated sentences did not exceed the maximum allowed by WIS. STAT. § 973.01. The confinement portion of the sentences did not exceed seventy-five percent of the total length of the bifurcated sentence. *See Lasanske*, 353 Wis. 2d 280, ¶9.

Our independent review of the record discloses no other potential issue for appeal. Therefore,

IT IS ORDERED that the judgments and order are summarily affirmed. WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that attorney Tristan Breedlove is relieved of her obligation to further represent Harvey in these matters. WIS. STAT. RULE 809.32(3).

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