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DISTRICT I/IV

January 29, 2015

To:

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

2013AP1637-CRNM State of Wisconsin v. Phylcia Chenille Wimberly
(L.C. #2011CF2842)

Before Higginbotham, Sherman and Kloppenburg, JJ.

Attorney Mark Schoenfeldt, appointed counsel for Phylcia Wimberly, filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2011-12)¹ and *Anders v. California*, 386 U.S. 738 (1967). Counsel provided Wimberly with a copy of the report, and both counsel and this court advised her of her right to file a response. Wimberly has not responded. We conclude that this case is appropriate for summary disposition. See WIS. STAT. RULE 809.21. After our

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

independent review of the record, we conclude there is no arguable merit to any issue that could be raised on appeal.

Wimberly pled guilty to one count of delivery of heroin and one count of possession of heroin with intent to deliver. The court imposed concurrent sentences on each count of two years of initial confinement and two years of extended supervision.

The no-merit report addresses whether Wimberly's pleas were entered knowingly, voluntarily, and intelligently. The plea colloquy sufficiently complied with the requirements of *State v. Bangert*, 131 Wis. 2d 246, 255-73, 389 N.W.2d 12 (1986) and WIS. STAT. § 971.08 relating to the nature of the charge, the rights Wimberly 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.

We previously ordered counsel to consider whether there is arguable merit to a motion to vacate the DNA surcharge. Counsel responds with a supplemental no-merit report concluding the argument lacks merit. For the reasons stated in the supplemental no-merit report, we agree.

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

Therefore,

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

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

Diane M. Fremgen
Clerk of Court of Appeals