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DISTRICT I

February 27, 2015

To:

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Milwaukee County Circuit Court
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You are hereby notified that the Court has entered the following order:

2013AP2802-CRNM

State of Wisconsin v. Darrick L. Bennett
(L.C. # 2011CF4466)

Before Curley, P.J.

Darrick L. Bennett appeals from a judgment of conviction for first-degree reckless homicide, contrary to WIS. STAT. § 940.02(1) (2011-12).¹ Bennett's postconviction/appellate

¹ All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

counsel, Randall E. Paulson, has filed a no-merit report pursuant to *Anders v. California*, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32, as well as a supplemental no-merit report that this court directed him to file.

On January 20, 2015, Attorney Gary E. Grass filed a motion to substitute counsel and extend the time to file a postconviction motion. *See* WIS. STAT. §§ 809.82(2)(b) & 809.30(2)(h). Subsequently, this court received a stipulation for substitution of counsel signed by Bennett and both attorneys.²

A defendant who has the financial resources to do so is entitled to have “whatever counsel he chooses to retain and may refuse to accept the services of counsel he does not want.” *State v. Jones*, 2007 WI App 248, ¶13, 306 Wis. 2d 340, 742 N.W.2d 341 (citation omitted). Accordingly, the court will grant the motion to substitute counsel. The court will also dismiss the no-merit appeal without prejudice and extend the time for Bennett to file a postconviction motion or notice of appeal.

² Bennett personally filed a letter with this court on February 6, 2015, seeking a thirty-day extension of time to file the substitution paperwork with this court. His signed stipulation was received on February 23, 2015. We are accepting the stipulation and will take no further action on Bennett’s February 6, 2015 letter.

We also note that in addition to providing a signed stipulation, Attorney Paulson copied this court on a letter he wrote to Attorney Grass and copied to Bennett. That letter stated in relevant part:

Let me reiterate my statement to [Attorney Grass] and Mr. Bennett in my letter dated December 5, 2014: “...assuming you take over as [Mr. Bennett’s] attorney, and assuming the court of appeals dismisses the no-merit appeal, those developments will cause Mr. Bennett to permanently give up all rights to have an attorney provided at public expense in this case....”

(continued)

Upon the foregoing,

IT IS ORDERED that Attorney Randall E. Paulson is relieved from any further representation of Darrick L. Bennett in this matter.

IT IS FURTHER ORDERED that Attorney Gary E. Grass shall be the attorney of record for Darrick L. Bennett as of the date of this order.

IT IS FURTHER ORDERED that the no-merit appeal is dismissed without prejudice.

IT IS FURTHER ORDERED that the motion to extend the deadline to file a postconviction motion is granted and the deadline for filing a postconviction motion or notice of appeal in Milwaukee County Circuit Court case No. 2011CF4466 is extended to sixty days from the date of this order.

Diane M. Fremgen
Clerk of Court of Appeals

(Ellipses and second set of bracketing in original.) Attorney Paulson's letter also indicated that he would be leaving the public defender's office on February 20, 2015. Accordingly, a copy of this order will be provided to Attorney Jeremy C. Perri, Director, Appellate Division, State Public Defender.