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DISTRICT II

April 8, 2015

To:

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

2015AP12-CRNM State of Wisconsin v. William J. Bennett (L.C. #2012CF1055)

Before Brown, C.J., Reilly, and Gundrum, JJ.

William J. Bennett appeals from a judgment of conviction for delivery of cocaine. His appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2013-14),¹ and *Anders v. California*, 386 U.S. 738 (1967). Bennett received a copy of the report, was advised of his right to file a response, and has elected not to do so. Upon consideration of the report and an independent review of the record, we conclude that the judgment may be

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

summarily affirmed because there is no arguable merit to any issue that could be raised on appeal. *See* WIS. STAT. RULE 809.21.

After two drug sales to a confidential informant, Bennett was charged with two counts of delivery of cocaine as a second or subsequent offense, and two counts of maintaining a vehicle as a drug trafficking place. A plea agreement was reached whereby in exchange for Bennett's guilty plea to one count of delivery of cocaine, the second or subsequent offense enhancer would be dropped, the three remaining counts would be dismissed as read ins, and the prosecutor would cap its sentencing recommendation at two years' initial confinement and two years' extended supervision as a consecutive sentence. Bennett entered a guilty plea. The prosecutor made the agreed upon recommendation at sentencing. Bennett was sentenced to four years' initial confinement and five years' extended supervision to be served concurrently with a sentence he was then serving. Bennett was required to repay \$2,340 buy money and was made eligible for the Substance Abuse Program after serving three years of confinement. Bennett filed a postconviction motion to remove a condition of probation that he not be allowed to use opiates under any circumstances and the motion was granted.

The no-merit report addresses the potential issues of whether Bennett's plea was freely, voluntarily and knowingly entered and whether the sentence was the result of an erroneous exercise of discretion or otherwise unduly harsh. This court is satisfied that the no-merit report properly analyzes the issues it raises as without merit, and this court will not discuss them further.

By his guilty plea Bennett forfeited the right to raise nonjurisdictional defects and defenses, including claimed violations of constitutional rights. *State v. Kelty*, 2006 WI 101, ¶18

& n.11, 294 Wis. 2d 62, 716 N.W.2d 886; *State v. Lasky*, 2002 WI App 126, ¶11, 254 Wis. 2d 789, 646 N.W.2d 53. Our review of the record discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit report, affirms the conviction and discharges appellate counsel of the obligation to represent Bennett further in this appeal.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney John R. Breffeilh is relieved from further representing William J. Bennett in this appeal. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals