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DISTRICT II

June 10, 2015

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

2015AP508-CRNM State of Wisconsin v. Jacob N. Thomas (L.C. #2013CF539)

Before Neubauer, P.J., Reilly and Gundrum, JJ.

Jacob N. Thomas appeals from a judgment of conviction for delivery of heroin, as a repeater. Thomas's 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). Thomas received a copy of

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

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

Thomas was charged with four drug charges after the sale of heroin to a confidential informant and the search of his automobile and residence. He was charged as a repeater on all counts and two counts included the additional sentence enhancer for possession within proximity to a school. He entered a no-contest plea to delivery of heroin, as a repeater, and the remaining charges were dismissed as read-ins. Thomas was sentenced to seven and one-half years' initial confinement and three years' extended supervision.²

The no-merit report addresses the potential issues of whether Thomas's plea was freely, voluntarily and knowingly entered and whether the sentence was the result of an erroneous exercise of discretion. 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.

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 Thomas further in this appeal.

² At the August 20, 2014 sentencing, the court ascertained that Thomas had previously given a DNA sample. The sentencing court did not impose a DNA surcharge under WIS. STAT. § 973.046(1r)(a), effective January 1, 2014, because the crime dated back to 2013 and related "constitutional reasons."

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 Timothy T. O'Connell is relieved from further representing Jacob N. Thomas in this appeal. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals