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**DISTRICT II**

July 15, 2015

To:

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

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2015AP380-CRNM	State of Wisconsin v. Robert Eddie Bouie, Jr. (L.C. #2013CF992)
2015AP381-CRNM	State of Wisconsin v. Robert Eddie Bouie, Jr. (L.C. #2014CF428)

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

In these consolidated appeals, Steven D. Phillips, counsel for Robert Eddie Bouie, Jr., has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2013-14)<sup>1</sup> and *Anders v. California*, 386 U.S. 738 (1967), concluding that no grounds exist to challenge the judgment convicting Bouie of disorderly conduct and misdemeanor and felony bail jumping. Bouie was notified of his right to file a response but has not done so. Upon consideration of the no-merit report and an independent review of the record as mandated by *Anders* and RULE 809.32, we conclude that

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

there is no arguable merit to any issue that could be raised on appeal. We accept the no-merit report and summarily affirm the judgment. *See* WIS. STAT. RULE 809.21.

Bouie got involved in a fight while free on bond in two misdemeanor cases. In a second case, while released on bond after having been charged with a felony, he violated the conditions of his bond by consuming alcohol, using cocaine, and attempting to thwart a urine drug test by providing synthetic urine. Bouie entered no-contest pleas to disorderly conduct and two counts of misdemeanor bail jumping in the first case and felony bail jumping in the second. The trial court withheld sentence on each count, placed Bouie on three years' probation, and stayed a sixty-day jail term, less the twenty days already served. This no-merit appeal followed.

The no-merit report examines two possible issues, the validity of Bouie's no-contest pleas and of the conditions of probation. We agree with counsel's analysis and conclusion that a postconviction or appellate challenge to either would be frivolous and without merit.

Under the United States Constitution, a guilty or no contest plea must be affirmatively shown to be knowing, intelligent, and voluntary. *State v. Brown*, 2006 WI 100, ¶25, 293 Wis. 2d 594, 716 N.W.2d 906. The legislature established in WIS. STAT. § 971.08 certain requirements for ensuring that a plea is knowing, voluntary, and intelligent. Our supreme court has provided additional requirements in *State v. Bangert*, 131 Wis. 2d 246, 389 N.W.2d 12 (1986), and subsequent cases. *Brown*, 293 Wis. 2d 594, ¶23.

Here, the court addressed Bouie personally and engaged him in a colloquy that verified his understanding and that the pleas were knowing, voluntary, and intelligent. *See id.*, ¶35. Besides the thorough colloquy, the court properly looked to the plea questionnaire/waiver of rights form Bouie signed reflecting his understanding of the elements, the potential penalties, and

the rights he agreed to waive. *See State v. Hoppe*, 2009 WI 41, ¶¶30-32, 317 Wis. 2d 161, 765 N.W.2d 794. Bouie would be unable to make a prima facie case that the court did not comply with the procedural requirements of WIS. STAT. § 971.08 and that he did not understand or know the information that should have been provided. *See Bangert*, 131 Wis. 2d at 274.

The report also considers the validity of the terms of probation. The court ordered Bouie to take his medications as prescribed, undergo a mental health assessment and follow through with appropriate treatment, participate in treatment or programming deemed appropriate by his agent, refrain from consuming or possessing alcohol or controlled, nonprescribed substances, obtain and maintain full-time employment and/or schooling, provide a DNA sample and pay the surcharge,<sup>2</sup> and pay the costs of the action and his supervision fees. The court also ordered Bouie to serve sixty days in jail, with credit for time served, and stayed the balance.

The disposition was proper. The maximum one-year term, WIS. STAT. § 973.09(2)(a)1m., 1r., was increased by one year because Bouie was convicted of three misdemeanors at the same time, § 973.09(2)(a)2., and by another year because he also was convicted of a felony at the same time, § 973.09(2)(b)2. The conditions of probation were “reasonable and appropriate.” Sec. 973.09(1)(a). Further, the parties jointly recommended the three-year term and Bouie agreed to the other terms of probation. He thus could not raise a meritorious challenge to the disposition on appeal. *See State v. Scherreiks*, 153 Wis. 2d 510, 518, 451 N.W.2d 759 (Ct. App. 1989).

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<sup>2</sup> The judgment of conviction indicates that Bouie had provided a DNA specimen in the past but that he is required by law to pay the surcharge. *See* WIS. STAT. § 973.046(1r)(a).

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

Upon the foregoing reasons,

IT IS ORDERED that the judgment of the circuit court is summarily affirmed, pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Steven D. Phillips is relieved of further representing Bouie in this matter.

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