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November 4, 2015

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

2014AP630-CRNM State of Wisconsin v. Jeremy David Andregg (L.C. #2012CF3395)

Before Lundsten, Higginbotham and Sherman, JJ.

Attorney Scott Szabrowicz, appointed counsel for Jeremy Andregg, 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). Counsel provided Andregg with a copy of the report, and both counsel and this court advised him of his right to file a response. Andregg has not responded. We conclude that this

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

case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. After our independent review of the record, we conclude there is no arguable merit to any issue that could be raised on appeal.

Andregg pled guilty to one count of armed robbery and two counts of robbery of a financial institution. The court imposed sentences totaling six years of initial confinement and eight years of extended supervision.

The no-merit report addresses whether Andregg'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 Andregg 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.

In its sentencing decision, the court made Andregg eligible for the substance abuse program, but only after first serving four years of initial confinement. Andregg's postconviction counsel later filed a motion for sentence modification, asking the court to exercise its discretion to remove the four-year requirement.

The circuit court denied the sentence modification motion. The order described Andregg as arguing that the original judge “improperly exercised her discretion.” The order then went on to review the original sentencing and the applicable factors, and concluded that no error occurred in the original sentencing. To the extent that Andregg might appeal this order and argue that the circuit court misunderstood the ground for his motion and failed to exercise its own discretion in the manner that he asked it to, we conclude the argument is frivolous, because a reasonable reading of the order is that the court did exercise its discretion and was satisfied the delay in the substance abuse program eligibility was appropriate.

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

Therefore,

IT IS ORDERED that the judgment of conviction and order denying postconviction relief are summarily affirmed. *See* WIS. STAT. RULE 809.21.

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

Diane M. Fremgen
Clerk of Court of Appeals