



OFFICE OF THE CLERK  
**WISCONSIN COURT OF APPEALS**

110 EAST MAIN STREET, SUITE 215  
P.O. BOX 1688  
MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880  
TTY: (800) 947-3529  
Facsimile (608) 267-0640  
Web Site: [www.wicourts.gov](http://www.wicourts.gov)

**DISTRICT I/IV**

November 16, 2015

To:

Hon. Jonathan D. Watts  
Circuit Court Judge  
Br. 15  
821 W State St  
Milwaukee, WI 53233

John Barrett  
Clerk of Circuit Court  
Room 114  
821 W. State Street  
Milwaukee, WI 53233

Karen A. Loebel  
Asst. District Attorney  
821 W. State St.  
Milwaukee, WI 53233

Cheryl A. Ward  
Ward Law Office  
10533 W. National Ave., Ste. 304  
West Allis, WI 53227

Gregory M. Weber  
Assistant Attorney General  
P.O. Box 7857  
Madison, WI 53707-7857

Morris Rash 334307  
Racine Corr. Inst.  
P.O. Box 900  
Sturtevant, WI 53177-0900

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

---

2014AP240-CRNM      State of Wisconsin v. Morris Rash (L.C. # 2012CF1119)

Before Kloppenburg, P.J., Lundsten and Sherman, JJ.

Attorney Cheryl Ward has filed a no-merit report seeking to withdraw as counsel for appellant Morris Rash. *See* WIS. STAT. RULE 809.32 (2013-14). The no-merit report addresses whether there would be arguable merit to: (1) a challenge to the sufficiency of the evidence to support the jury verdicts of guilty as to possession of a firearm and substantial battery; (2) any issues based on a juror continuing on the panel after overhearing witnesses having cell phone conversations; or (3) a challenge to the sentence imposed by the circuit court. Rash has filed a no-merit response raising multiple issues, including arguments that his trial counsel was

ineffective and that the circuit court erroneously exercised its discretion by allowing photographs to go to the jury room over defense objection. Attorney Ward filed a supplemental no-merit report concluding that a claim of ineffective assistance of counsel would lack arguable merit.

By prior orders, we noted that our record is missing the trial exhibits and that the trial exhibits are not located in the circuit court. We explained that we are unable to conclude that there would be no arguable merit to any postconviction or appellate issues without reviewing the trial exhibits. Accordingly, we directed Attorney Ward to obtain the missing trial exhibits and submit them to the circuit court. We also directed Attorney Ward to review the exhibits and to consult with Rash as to any potentially non-frivolous issues.

Attorney Ward now informs us that she is unable to locate the trial exhibits. Because we are unable to conclude that further proceedings would be wholly frivolous, we reject the no-merit report. *See State v. Perry*, 136 Wis. 2d 92, 99-100, 401 N.W.2d 748 (1987) (deficiency in the record that deprives the appellant of meaningful appellate review entitles the defendant to a new trial). We dismiss this no-merit appeal and extend the time for Rash to seek relief in the circuit court.

Therefore,

IT IS ORDERED that the no-merit report is rejected and this appeal is dismissed without prejudice. Attorney Ward or a successor appointed by the State Public Defender shall continue to represent Rash.

IT IS FURTHER ORDERED that the time for Rash to file a postconviction motion or notice of appeal is extended to sixty days from the date of this opinion and order.

---

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