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DISTRICT III

May 10, 2016

To:

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Circuit Court Judge, Br. 8
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You are hereby notified that the Court has entered the following opinion and order:

2015AP956-CRNM State of Wisconsin v. Terrell L. White (L.C. # 2014CF600)

Before Curley, P J.

Attorney Timothy Baldwin, appointed appellate counsel for Terrell L. White, filed a no-merit report and a supplemental no-merit report on behalf of Terrell L. White. *See* WIS. STAT. RULE 809.32(2013-14). By order dated February 18, 2016, this court granted the state public defender's motion for a stay of the proceedings to permit appointment of successor appellate counsel. Our order also directed successor counsel to file a motion within sixty days after his or appointment requesting release of the hold and seeking appropriate relief on White's behalf. Successor counsel, Attorney Gregory Bates, has now filed a motion captioned "motion to

withdraw no merit report and to extend time to file a postconviction motion.” In that motion, Attorney Bates advises that he has identified “at least one issue of merit that needs to be addressed by the circuit court,” and he seeks an extension of appellate deadlines. A no-merit proceeding is appropriate only if counsel is convinced that an appeal would be wholly frivolous. *McCoy v. Court of Appeals*, 486 U.S. 429, 437 (1988). Accordingly, the court construes the successor counsel’s motion as including requests to lift the hold previously imposed and to voluntarily dismiss the no-merit appeal. In light of *McCoy*, the court will grant the motion, as construed. To accommodate the court’s procedures at remittitur, the court will allow White an extension of appellate deadlines slightly longer than requested.

IT IS ORDERED that the hold previously imposed in this matter is lifted.

IT IS FURTHER ORDERED that the no-merit report is rejected and this appeal is dismissed without prejudice.

IT IS FURTHER ORDERED that the deadline for filing a postconviction motion or notice of appeal is extended through June 24, 2016. *See* WIS. STAT. RULE 809.82(2)(a) (2013-14).

Diane M. Fremgen
Clerk of Court of Appeals