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**DISTRICT I/IV**

September 1, 2016

To:

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

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2015AP1116-CRNM      State of Wisconsin v. Ronald Fillyaw (L.C. # 2012CF2442)

Before Lundsten, Higginbotham, and Blanchard, JJ.

Attorney Marcella De Peters, appointed counsel for Ronald Fillyaw, 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, 744 (1967). Counsel provided Fillyaw with a copy of the report, and both counsel and this court advised him of his right to file a response. Fillyaw has not responded. We conclude that this case is appropriate for summary disposition. See WIS. STAT. RULE 809.21. After our

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

independent review of the record, we conclude there is no arguable merit to any issue that could be raised on appeal.

After a jury trial, Fillyaw was convicted of one count of second-degree recklessly endangering safety. The court imposed a sentence of sixteen months of initial confinement and four years of extended supervision.

As an initial matter, in our order of April 27, 2016, we noted that the clerk of the circuit court had been unable to locate two items that should be in the record, namely, the amended information that the transcript shows was submitted and accepted by the court on the day of trial, and the written jury instructions. We directed counsel for Fillyaw to advise us whether the absence of these items is significant.

Counsel has informed us that she does not believe that the absence of the jury instructions raises an arguable issue, and that the circuit court properly accepted the amended information. We construe the latter as a statement that the absence of this item from the record does not raise an arguable issue. We conclude that there is no arguable merit to this issue.

The no-merit report addresses whether the evidence was sufficient to support the jury's guilty verdict. We affirm the verdict unless the evidence, viewed most favorably to the State and the conviction, is so insufficient in probative value and force that no reasonable trier of fact could have found guilt beyond a reasonable doubt. *State v. Poellinger*, 153 Wis. 2d 493, 501, 451 N.W.2d 752 (1990). Credibility of witnesses is for the trier of fact. *Id.* at 504.

Here, without attempting to describe the evidence in detail, we conclude that it was sufficient. Witnesses testified to facts from which it could reasonably be inferred that Fillyaw

fired shots from a gun that struck a vehicle. That conduct satisfies the elements of second-degree recklessly endangering safety. 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.

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

Therefore,

IT IS ORDERED that the judgment of conviction is summarily affirmed. *See* WIS. STAT. RULE 809.21.

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

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