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**DISTRICT III/II**

January 5, 2017

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P.O. Box 19033  
Green Bay, WI 54307-9033

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

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2016AP1408-CRNM      State of Wisconsin v. Devonte D. Williams (L.C. # 2014CF35)

Before Neubauer, C.J.<sup>1</sup>

Devonte D. Williams appeals from a judgment of conviction for three counts of misdemeanor bail jumping entered on his no contest plea. His appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 and *Anders v. California*, 386 U.S. 738 (1967). Williams filed a response to the no-merit report and counsel then filed a supplemental no-merit report. RULE 809.32(1)(e), (f). Upon consideration of these submissions and an independent

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<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2) (2015-16). All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

review of the record, we conclude that the judgment may be summarily affirmed because there is no arguable merit to any issue that could be raised on appeal. *See* WIS. STAT. RULE 809.21.

Williams was charged in Marathon County as a repeat offender of stalking and eleven counts of misdemeanor bail jumping. The complaint alleged that Williams continued to have contact with an ex-girlfriend in violation of a no-contact provision of a bail bond. When an officer first spoke with Williams about contact with the ex-girlfriend, Williams had a bus ticket to go back to Milwaukee. On December 28, 2013, he was released on a \$1,000 signature bond so he could catch his bus.<sup>2</sup> Williams did not appear as required on January 14, 2014. After his initial appearance on July 10, 2014, Williams signed a \$5,000 signature bond. Williams did not appear for the September 5, 2014 preliminary hearing. Both bonds were forfeited because Williams failed to appear for hearings. Williams entered a no contest plea to three counts of misdemeanor bail jumping without the repeater enhancer, and all other charges in this case, and a prior disorderly conduct case, were dismissed as read-ins at sentencing. A joint sentencing recommendation was made and the court adopted the recommended sentence. Williams was sentenced to three nine-month jail terms, with two terms concurrent to each other but consecutive to the third, and all to be served concurrently with a fifteen-year prison sentence Williams was serving on a Milwaukee County conviction.

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<sup>2</sup> As it appears in the record, the case number on the \$1,000 bond is Marathon County case number 2014CM35. The “CM” case number was changed to a “CF” case number when the criminal complaint was filed. Williams contends that the \$1,000 bond should have been filed in Marathon County case number 2013CM2438, a case charging disorderly conduct which was dismissed as part of the plea agreement in this case. The police report attached to the complaint indicates that the \$1,000 bond was signed in connection with the new charges and not in relation to the disorderly conduct charge.

The no-merit report addresses the potential issues of whether Williams' plea was not freely, voluntarily, and knowingly entered and whether the sentence was the result of an erroneous exercise of discretion. This court is satisfied that the no-merit report properly analyzes the issues it raises as without merit, and this court will not discuss them further. Because the sentence imposed was the same as that recommended by Williams, Williams has no basis to challenge his sentence on appeal. See *State v. Magnuson*, 220 Wis. 2d 468, 471-72, 583 N.W.2d 843 (Ct. App. 1998).

We observe that the judgment of conviction does not include any sentence credit despite defense counsel's suggestion at sentencing that some credit might be due because Williams was picked up on warrants issued in this case. Any claim to sentence credit is moot because the shorter sentences were imposed concurrent to Williams' fifteen-year prison sentence on the Milwaukee County conviction.<sup>3</sup> Therefore, no further postconviction proceedings are needed to determine if in fact Williams was entitled to sentence credit.

The no-merit report also addresses whether there would be arguable merit to pursuing a postconviction motion regarding the forfeiture of the two signature bonds. Williams' response focuses on the forfeiture and Williams claims his constitutional right to due process was violated because he was not given a hearing on why the bonds should not be forfeited. With regard to the \$1,000 signature bond and Williams' failure to appear at the January 14, 2014 court date, a bond forfeiture hearing was held February 29, 2014. Williams failed to appear. Williams' attorney explained to the court that Williams had financial difficulties in making the trip from Milwaukee

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<sup>3</sup> "An issue is moot when its resolution will have no practical effect on the underlying controversy." *State ex rel. Olson v. Litscher*, 2000 WI App 61, ¶3, 233 Wis. 2d 685, 608 N.W.2d 425.

to Wausau. The court held forfeiture open and set the matter for hearing again on March 17, 2014. Williams failed to appear and the \$1,000 signature bond was forfeited on March 17, 2014.<sup>4</sup> With respect to the \$5,000 signature bond and Williams' failure to appear on September 5, 2014, counsel explained that Williams had lost his job and did not have the money to travel from Milwaukee to Wausau. The court set a September 19, 2014 bond forfeiture hearing. Williams failed to appear. Williams' due process claim lacks merit because the record establishes that forfeiture hearings were held.<sup>5</sup>

At sentencing, defense counsel asked the court to vacate the forfeiture of the \$5,000 bond because Williams was in the Milwaukee County jail and for that reason unable to appear at the September 5, 2014 hearing that resulted in the forfeiture. The trial court indicated that it would consider vacating the forfeiture judgment if there was written proof of the dates of Williams' jail confinement. The prosecution indicated it would have no objection if Williams' nonappearance was due to confinement in jail. No-merit counsel reports he investigated the dates of Williams' confinement in the Milwaukee County jail and determined that those dates did not overlap with Williams' missed appearances on January 17, 2014, and September 5, 2014, which led to the forfeiture of the two bonds. Williams does not contradict counsel's representation. Further, the court was aware that Williams claimed financial hardship but did not find it an adequate excuse

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<sup>4</sup> The record in this case does not reflect what occurred in court on March 17 and September 19, 2014. The Wisconsin Circuit Court Access docket entries in Marathon County case number 2013CM2438 reflect that Williams failed to appear. This court may take judicial notice of the circuit court access records. *Mercado v. GE Money Bank*, 2009 WI App 73, ¶5 n.3, 318 Wis. 2d 216, 768 N.W.2d 53.

<sup>5</sup> Williams also contends that the bond executed in case number 2013CM2438 could not be forfeited because that case was eventually dismissed. Forfeiture is tied to Williams' nonappearance while the case was pending. That the case was dismissed does not change the fact that Williams failed to appear.

for Williams' nonappearance. Therefore, there is no basis to pursue a postconviction motion to relieve Williams of the bond forfeitures.

Our review of the record discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit report, affirms the judgment and discharges appellate counsel of the obligation to represent Williams further in this appeal.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Frederick A. Bechtold is relieved from further representing Devonte D. Williams in this appeal. *See* WIS. STAT. RULE 809.32(3).

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