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**DISTRICT III**

April 25, 2017

To:

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Darrick P. Jordan  
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You are hereby notified that the Court has entered the following opinion and order:

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2016AP1588-CRNM	State of Wisconsin v. Darrick P. Jordan
2016AP1589-CRNM	(L. C Nos. 2013CT1002; 2014CT83)

Before Hruz, J.<sup>1</sup>

Counsel for Darrick Jordan has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2015-16), concluding there is no basis for challenging the sentences imposed after revocation of Jordan's probation. Jordan was informed of his right to respond to the report and has not responded. Upon our independent review of the record as mandated by *Anders v.*

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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.

*California*, 386 U.S. 738 (1967), we conclude there is no arguable merit to any issue that could be raised on appeal. Therefore, we summarily affirm the judgments of conviction. See WIS. STAT. RULE 809.21.

In March 2014, Jordan pleaded no contest to operating a motor vehicle while intoxicated, second offense, in Brown County Circuit Court case No. 2013CJ1002; and no contest to misdemeanor bail jumping and operating a motor vehicle while intoxicated, third offense, in Brown County Circuit Court case No. 2014CT83. The circuit court withheld sentence in both cases and placed Jordan on probation. Jordan's probation was later revoked and, out of a maximum possible sentence of two years and three months, the circuit court imposed concurrent and consecutive sentences totaling three-hundred days in jail with 134 days of sentence credit.

An appeal from a judgment imposing sentence after probation revocation does not bring the underlying conviction before us. See *State v. Drake*, 184 Wis. 2d 396, 399, 515 N.W.2d 923 (Ct. App. 1994). Additionally, the validity of the probation revocation itself is not the subject of this appeal. See *State ex rel. Flowers v. DHSS*, 81 Wis. 2d 376, 384, 260 N.W.2d 727 (1978) (probation revocation independent from underlying criminal action); see also *State ex rel. Johnson v. Cady*, 50 Wis. 2d 540, 550, 185 N.W.2d 306 (1971) (judicial review of probation revocation is by petition for certiorari in circuit court). This court's review is therefore limited to whether the circuit court properly exercised its sentencing discretion.

There is no arguable merit to a claim that the circuit court improperly exercised its sentencing discretion. Our review of the record confirms that the circuit court appropriately considered relevant sentencing factors, including the seriousness of the offenses; Jordan's character; the need to protect the public; and the mitigating circumstances Jordan raised. See

*State v. Gallion*, 2004 WI 42, ¶¶39-46, 270 Wis. 2d 535, 678 N.W.2d 197. The circuit court, in the exercise of its discretion, also considered the judicial administrative district's sentencing guidelines for drunk driving offenses, as adopted pursuant to WIS. STAT. § 346.65(2m)(a). The sentences imposed are within the range authorized by law, *see State v. Scaccio*, 2000 WI App 265, ¶18, 240 Wis. 2d 95, 622 N.W.2d 449, and therefore are not so excessive so as to shock the public's sentiment, *see Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975).

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

Therefore,

IT IS ORDERED that the judgments are summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that attorney Jeffrey A. Mann is relieved of further representing Jordan in these matters. *See* WIS. STAT. RULE 809.32(3).

IT IS FURTHER ORDERED that this summary disposition order will not be published and may not be cited under WIS. STAT. RULE 809.23(3)(b).

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