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**DISTRICT II**

September 13, 2017

To:

Hon. Richard J. Nuss  
Circuit Court Judge  
Fond du Lac County Courthouse  
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Fond du Lac, WI 54935

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Karen L. Rajek  
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Fond du Lac, WI 54935

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

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2016AP1141-CRNM      State of Wisconsin v. Karen L. Rajek (L.C. #2015CM421)

Before Reilly, P.J.<sup>1</sup>

**Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).**

Karen L. Rajek appeals from a judgment imposing sentence after the revocation of her probation. Rajek's appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32, and *Anders v. California*, 386 U.S. 738 (1967), addressing whether the circuit court

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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.

appropriately exercised its discretion in imposing sentence. Rajek received a copy of the report and elected not to file a response. Upon consideration of the report and an independent 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.

Upon Rajek's no-contest pleas to disorderly conduct (count one) and misdemeanor bail jumping (count two), the circuit court withheld sentence and ordered two years of probation. On November 5, 2015, following the revocation of her probation, Rajek was sentenced to sixty days' jail on count one, and 150 days' jail on count two. This appeal brings before the court only the sentence imposed after the revocation of Rajek's probation.<sup>2</sup> The no-merit report indicates that Rajek has served her entire sentence and has been released from custody. We agree with the no-merit report's conclusion that the appeal is moot. *See State v. Walker*, 2008 WI 34, ¶14, 308 Wis. 2d 666, 747 N.W.2d 673 (a challenge to a reconfinement order was moot because the defendant had completed the reconfinement term and the court's decision would not affect the underlying controversy); *State ex rel. Jones v. Gerhardstein*, 135 Wis. 2d 161, 169, 400 N.W.2d 1 (Ct. App. 1986) ("An issue is moot when a determination is sought which can have no practical effect on a controversy.").

Despite mootness, we have conducted an independent review of the sentencing record. We agree with the no-merit report's analysis that the sentencing court properly exercised its

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<sup>2</sup> Because this matter is before us following sentencing after probation revocation, Rajek's underlying convictions are not before us. *See State v. Drake*, 184 Wis. 2d 396, 399, 515 N.W.2d 923 (Ct. App. 1994). In addition, Rajek cannot challenge the probation revocation decision. *See State ex rel. Flowers v. DHSS*, 81 Wis. 2d 376, 384, 260 N.W.2d 727 (1978). Our review is limited to the circuit court's sentencing discretion.

discretion in imposing sentence, *see State v. Gallion*, 2004 WI 42, ¶¶17-18, 38-40, 270 Wis. 2d 535, 678 N.W.2d 197, and that the sentence imposed, which was well below the maximum, was not unduly harsh or excessive, *see Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). Accordingly, we accept the no-merit report and discharge appellate counsel of the obligation to further represent Rajek in this appeal. *See* WIS. STAT. RULE 809.32(3).

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Colleen Marion is relieved from further representing Karen L. Rajek in this appeal. *See* WIS. STAT. RULE 809.32(3).

IT IS FURTHER ORDERED that this summary disposition order will not be published.

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