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DISTRICT I

September 25, 2017

To:

Hon. Janet C. Protasiewicz
Circuit Court Judge
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You are hereby notified that the Court has entered the following opinion and order:

2017AP178-CR

State of Wisconsin v. Irving M. Garduno (L.C. # 2016CF849)

Before Kessler, Brash and Dugan, JJ..

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).

By order dated August 29, 2017, this court directed Attorney Steven W. Zaleski, appellate counsel for Irving M. Garduno, to file a supplemental no-merit report in this matter. Attorney Zaleski now requests voluntary dismissal of the no-merit appeal and an extension of the deadline for pursuing postconviction relief in the circuit court. The requests reflect that counsel believes the case presents at least one arguably meritorious issue. A no-merit appeal is appropriate only if counsel is convinced that postconviction proceedings would be wholly

frivolous. *See McCoy v. Court of Appeals*, 486 U.S. 429, 437 (1988). Accordingly, the court will grant the relief requested.

IT IS 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 November 10, 2017. *See* WIS. STAT. RULE 809.82(2)(a) (2015-16).

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Diane M. Fremgen
Clerk of Court of Appeals