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**DISTRICT I/IV**

November 7, 2017

To:

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

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2016AP2274-NM

In re the commitment of Willie Kay Maclin: State of Wisconsin v.  
Willie Kay Maclin (L.C. # 2006CI9)

Before Blanchard, Kloppenburg and Fitzpatrick, 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).**

Attorney Jeffrey Jensen, appointed counsel for Willie Kay Maclin, has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2015-16).<sup>1</sup> Counsel provided Maclin with a copy of the report, and both counsel and this court advised him of his right to file a response. Maclin has

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

not responded. We conclude that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. After our independent review of the record, we conclude there is no arguable merit to any issue that could be raised on appeal.

Maclin filed a petition for discharge under WIS. STAT. § 980.09. The circuit court denied the petition.

The petition for discharge was based mainly on a new expert's rescoring of a previously administered instrument, which resulted in an opinion more favorable to Maclin. The court denied the petition because it was not based on new facts.

The no-merit report concludes that an appeal of this order would be frivolous because the court applied the correct legal standard and the petition fails to meet that standard. In this context, for the petitioner to obtain an evidentiary hearing, an expert's opinion must be based on something more than facts, professional knowledge, or research that was considered by an expert testifying in a prior proceeding that determined the person to be sexually violent. *State v. Combs*, 2006 WI App 137, ¶32, 295 Wis. 2d 457, 720 N.W.2d 684.

Here, there is no indication in the petition or the new expert's report that the expert relied on something new, other than her own rescoring of a previously administered instrument. We agree that it would be frivolous to argue that this meets the applicable standard.

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

Therefore,

IT IS ORDERED that the order denying petition for discharge is summarily affirmed.

*See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Jensen is relieved of further representation of Maclin in this matter. *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*