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DISTRICT III

December 29, 2017

To:

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

2017AP1410-CRNM State of Wisconsin v. Ryan James Baewer (L.C. # 2016CF1001)

Before Stark, P.J., Hruz and Seidl, 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).

Counsel for Ryan Baewer has filed a no-merit report. Upon of our review of the report, we cannot conclude that there is no arguable basis for Baewer to withdraw his no-contest pleas. First, the circuit court did not recite the potential penalties in the plea colloquy, arguably

violating the holding in *State v. Hoppe*, 2009 WI 41, ¶¶31-33, 317 Wis. 2d 161, 765 N.W.2d 794. Second, the court did not give the warning required by *State v. Hampton*, 2004 WI 107, ¶2, 274 Wis. 2d 379, 683 N.W.2d 14, that the court is not bound by the parties' sentence recommendations. Third, the defendant was not advised that he would be subject to multiple DNA surcharges. If these surcharges are viewed as a penalty, an issue currently pending before the Wisconsin Supreme Court in *State Odom*, 2015AP2525, his no-contest pleas may be invalid for failure to advise him of that potential penalty. Because we cannot conclude that there is no arguable merit to any issue Baewer could raise in a motion to withdraw his pleas, we reject the no-merit report and extend the time for filing a postconviction motion.

IT IS ORDERED that this no-merit appeal is dismissed without prejudice.

IT IS FURTHER ORDERED that the time for filing a postconviction motion is extended to thirty days from the date of this order.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Diane M. Fremgen
Clerk of Court of Appeals