



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688
Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT I

January 23, 2018

To:

Hon. Dennis R. Cimpl
Circuit Court Judge
Children's Court Center
10201 W. Watertown Plank Rd.
Wauwatosa, WI 53226

John Barrett
Clerk of Circuit Court
Room 114
821 W. State Street
Milwaukee, WI 53233

Karen A. Loebel
Asst. District Attorney
821 W. State St.
Milwaukee, WI 53233

George Tauscheck
4230 N. Oakland Ave. #103
Milwaukee, WI 53211

Criminal Appeals Unit
Department of Justice
P.O. Box 7857
Madison, WI 53707-7857

Joel Anthony Miller 449920
Wisconsin Secure Program Facility
P.O. Box 9900
Boscobel, WI 53805-9900

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

2017AP1585-CRNM State of Wisconsin v. Joel Anthony Miller (L.C. # 2013CF3288)

Before Brennan, P.J., Kessler 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 December 21, 2017, this court directed Attorney George M. Tauscheck to file a supplemental no-merit report on behalf of Joel Anthony Miller. Upon this court's preliminary, independent review of the record, the no-merit report, and Miller's response, we observed that the circuit court had imposed two mandatory DNA surcharges, apparently contrary to *State v. Radaj*, 2015 WI App 50, ¶35, 363 Wis. 2d 633, 866 N.W.2d 758.

Counsel now moves to dismiss the appeal and seeks an extension of time for filing a supplemental postconviction motion in order to address the DNA issue. Because a no-merit report is only appropriate if counsel is convinced that an appeal would be wholly frivolous, *see McCoy v. Court of Appeals*, 486 U.S. 429, 437 (1988), this court will grant the motion.

Upon the foregoing,

IT IS ORDERED that the no-merit report in appeal No. 2017AP1585-CRNM is rejected and the appeal is dismissed without prejudice.

IT IS FURTHER ORDERED that the deadline for filing a supplemental postconviction motion or notice of appeal in Milwaukee County Circuit Court case No. 2013CF3288 is extended to March 22, 2018.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Diane M. Fremgen
Acting Clerk of Court of Appeals