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DISTRICT IV/III

February 6, 2018

To:

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

2017AP1646-CRNM State of Wisconsin v. Ricardo F. Moliner-Wetzel
(L. C. No. 2012CF5)

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 Ricardo Moliner-Wetzel has filed a no-merit report concluding there is no arguable basis for Moliner-Wetzel to challenge the sentence imposed after revocation of his probation. Moliner-Wetzel was advised of his right to respond to the report and has not responded. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude there is no arguable basis for appeal.

In 2012, Moliner-Wetzel entered no-contest pleas to second-degree reckless endangerment, criminal damage to property, and misdemeanor bail-jumping, all as a repeater. The circuit court withheld sentence and placed Moliner-Wetzel on probation. After his probation was revoked by the Department of Corrections, he was returned to court for sentencing. The court imposed a jointly recommended sentence of four years' initial confinement and two years' extended supervision.

This appeal involves only the sentence imposed after revocation of probation. Neither the underlying conviction nor the revocation will be considered in this appeal. *See State v. Tobey*, 250 Wis. 2d 781, 784, 548 N.W.2d 951 (Ct. App. 1996). However, because the parties jointly recommended the sentence the court imposed, the sentence cannot be challenged on appeal. *State v. Scherreiks*, 153 Wis. 2d 510, 518, 451 N.W.2d 759 (Ct. App. 1989). Therefore, we conclude there is no arguable basis for any issue that could be raised on appeal.

IT IS ORDERED that the judgment is summarily affirmed. WIS. STAT. RULE 809.21 (2015-16).

IT IS FURTHER ORDERED that attorney Michael Herbert is relieved of his obligation to further represent Moliner-Wetzel in this matter. *See* WIS. STAT. RULE 809.32(3) (2015-16).

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Diane M. Fremgen
Acting Clerk of Court of Appeals