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DISTRICT II

February 28, 2018

To:

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Kenosha, WI 53140

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

2017AP1978-CRNM State of Wisconsin v. Calvin Garmon, III (L.C. # 2016CF966)

Before Neubauer, C.J., Reilly, P.J., and Hagedorn, J.

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).

Calvin Garmon, III, appeals from a judgment of conviction for strangulation as an act of domestic abuse and as a repeater. Garmon's appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2015-16),¹ and *Anders v. California*, 386 U.S. 738 (1967).

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

Garmon received a copy of the report, was advised of his right to file a response, and has elected not to do so. Upon consideration of the report and an independent review of the record, we conclude that the judgment may be summarily affirmed because there is no arguable merit to any issue that could be raised on appeal. *See* WIS. STAT. RULE 809.21.

On August 25, 2016, Garmon and his then girlfriend got into an argument which turned physical. Police were called and the girlfriend reported that Garmon put his hands around her neck making it difficult for her to breathe and impossible to speak for five-to-ten seconds. Although Garmon maintained nothing happened, police observed that the girlfriend had a swollen upper lip and several scratch marks and irritation on the sides of her neck. When Garmon was arrested, two small corner cut baggies found in his pant pocket tested positive for cocaine. Garmon was charged as a repeat offender with strangulation as domestic abuse, battery as domestic abuse, disorderly conduct as domestic abuse, and possession of cocaine. He entered a guilty plea to the strangulation as domestic abuse charge, with the repeater enhancer, and the remaining charges were dismissed. The prosecution agreed to recommend probation and did so at sentencing. Of the eight-year maximum, Garmon was sentenced to two years' and six months' initial confinement and three years' extended supervision.

The no-merit report addresses the potential issues of whether Garmon's plea was freely, voluntarily, and knowingly entered and whether the sentence was the result of an erroneous exercise of discretion or unduly harsh or excessive. This court is satisfied that the no-merit report properly analyzes the issues it raises as without merit, and this court will not discuss them further.

Our review of the record discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit report, affirms the conviction and discharges appellate counsel of the obligation to represent Garmon further in this appeal.

Upon the foregoing reasons,

IT IS ORDERED that the judgment of conviction is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney David Del Busto is relieved from further representing Calvin Garmon, III, in this appeal. *See* WIS. STAT. RULE 809.32(3).

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

Sheila T. Reiff
Clerk of Court of Appeals