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**DISTRICT III**

March 27, 2018

To:

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

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2016AP2407-CRNM      State v. Kerry E. Lewis (L. C. No. 2014CF593)

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 Kerry Lewis has filed a no-merit report concluding there is no basis for appealing a sentence imposed after revocation of probation. Lewis was advised of his right to respond 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 merit to any issue that could be raised on appeal.

Lewis was originally charged with felony bail jumping. The complaint alleged that Lewis had been released on a signature bond in another case, and a condition of the bond required that he report to the Day Report Center three times a week. Lewis stopped reporting as directed. Lewis subsequently pleaded no contest to the felony bail jumping charge, and the circuit court withheld sentence and placed Lewis on two years' and six months' probation. Lewis's probation was revoked, and the court sentenced Lewis after revocation to two years' initial incarceration and two years' extended supervision.

Because this appeal arises from a judgment after revocation of probation, Lewis is barred from challenging the revocation or raising issues in this appeal that relate to the underlying conviction. See *State v. Tobey*, 200 Wis. 2d 781, 784, 548 N.W.2d 95 (Ct. App. 1996). Furthermore, revocation is independent from the underlying criminal action. See *State ex rel. Flowers v. DHSS*, 81 Wis. 2d 376, 384, 260 N.W.2d 727 (1978). This court's review is limited to whether the circuit court properly exercised its sentencing discretion.

The no-merit report contends any argument challenging the circuit court's sentencing discretion would lack arguable merit. The no-merit report also alleges Lewis could not meet his burden to prove the court relied upon inaccurate information when sentencing him. See *State v. Tjepelman*, 2006 WI 66, ¶2, 291 Wis. 2d 179, 717 N.W.2d 1. The no-merit report further asserts there is no new factor that could serve as a ground for seeking a sentence modification. Our independent review of the record confirms counsel's analysis that none of those issues present a meritorious basis for relief.

Our independent review of the record discloses no other potential issues for appeal.<sup>1</sup>

Therefore,

IT IS ORDERED that the judgment is summarily affirmed. WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that attorney Catherine Malchow is relieved of further representing Lewis in this matter. WIS. STAT. RULE 809.32(3).

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

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*Sheila T. Reiff*  
*Clerk of Court of Appeals*

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<sup>1</sup> We note that although not explicitly referenced by the circuit court at sentencing, the COMPAS risk assessment was discussed in the presentence investigation report. Regardless, the record shows it was not “determinative” of the sentence imposed. *See State v. Loomis*, 2016 WI 68, ¶¶98-99, 371 Wis. 2d 235, 881 N.W.2d 749. Any challenge to the sentence based on COMPAS would therefore lack arguable merit.