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**DISTRICT I**

May 18, 2018

To:

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

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2016AP1566-CRNM      State of Wisconsin v. Sam Onela (L.C. # 2013CF3173)

Before Brennan, P.J., Brash 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).**

Sam Onela appeals a judgment convicting him after a jury trial of one count of possession of THC, with intent to deliver, as a party to a crime. Attorney Chris M. Bailey filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2015-

16),<sup>1</sup> and *Anders v. California*, 386 U.S. 738, 744 (1967). Onela was advised of his right to respond, but he did not do so. After considering the no-merit report and conducting an independent review of the record, we conclude that there are no issues of arguable merit that Onela could raise on appeal. Therefore, we affirm. *See* WIS. STAT. RULE 809.21.

The no-merit report addresses whether there would be arguable merit to a claim that the evidence was sufficient to support the verdict. When reviewing the sufficiency of the evidence, we look at whether “the evidence, viewed most favorably to the state and the conviction, is so lacking in probative value and force that no trier of fact, acting reasonably, could have found guilt beyond a reasonable doubt.” *State v. Zimmerman*, 2003 WI App 196, ¶24, 266 Wis. 2d 1003, 669 N.W.2d 762 (citation omitted). “If any possibility exists that the trier of fact could have drawn the appropriate inferences for the evidence adduced at trial to find the requisite guilt, an appellate court may not overturn [the] verdict.” *Id.*

The evidence adduced at trial showed that Deputy Jason Hollins of the Fresno County Sheriff’s Department contacted Detective Steve Dettmann, who works with High Intensity Drug Trafficking Area law enforcement, to alert him that two packages containing marijuana had been intercepted in Fresno County addressed to two people in Milwaukee County. Dettmann testified that he delivered one of the packages, which was addressed to Onela, posing as a FedEx employee. Onela signed for and accepted the package. Dettmann asked him if he was expecting a package from Fresno, and he said that he was. Dettmann then left, returned to his car to change clothing, and returned to the residence.

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

In the meantime, Detective Christopher Ederesinghe, who had watched Onela sign for the package, with other law enforcement, approached and began talking with Onela. Ederesinghe testified that Onela was cooperative and agreed to talk to them in the house. Ederesinghe also testified that Onela gave them permission to search the house. They found a piece of luggage with an airline tag that indicated that Onela had just returned from San Francisco, California. Ederesinghe testified that Onela told him he had just returned from touring some marijuana growing operations near Fresno, California.

Joseph Tang, who is a criminal intelligence analyst working with a State drug task force, testified that he analyzed Onela's cell phone logs and found text messages between Onela and Yueng Porter, who received an identical package containing marijuana from Fresno and who was also charged. Based on this testimony at trial, there was sufficient evidence to convict Onela.

The no-merit report next addresses whether there would be arguable merit to a claim that the circuit court should have granted Onela's pretrial motions to suppress. Onela moved to suppress evidence the police gathered from his home—the airline luggage tag. He also sought suppression of statements he made to the police indicating that he had been in California touring marijuana farms the week before the package arrived. We first note that the appellate record does not contain a transcript of the suppression hearing. However, the circuit court made detailed findings about the testimony from the hearing before issuing its oral ruling six weeks later. Moreover, the circuit court expressly asked the parties whether it had covered everything and whether they agreed with her description of the testimony. The parties agreed with the circuit court's recounting of the testimony. Therefore, we have reviewed the circuit court's findings about the hearing testimony in considering this issue.

Suppression hearing testimony established that Onela invited the police into his home and he agreed to talk with them. He also told the police that they could look through his house. Although there was disagreement about whether Onela told the police they could look through his house for other people or whether they could do a broader search for contraband, that disagreement is irrelevant because the police were lawfully in Onela's basement, which contained a bedroom, when they noticed the luggage tag on a table. As for Onela's statement that he had been touring marijuana farms, Onela was not in police custody when he shared this information so the police were not required to give him warnings under *Miranda v. Arizona*, 384 U.S. 436, 444 (1966) prior to talking with him. There would be no arguable merit to a claim that the circuit court improperly denied the motions to suppress.

Finally, the no-merit report addresses whether there would be arguable merit to a claim that the circuit court misused its discretion when it sentenced Onela. The circuit court imposed a sentence of three years of imprisonment, consisting of eighteen months of initial confinement and eighteen months of extended supervision. It then stayed the sentence in favor of three years of probation, with twelve months of jail time, with work release as a condition. In its sentencing remarks, the circuit court discussed as positive factors Onela's strong work history and a lack of a prior criminal record. However, the circuit court said that the large quantity of marijuana indicated that Onela clearly meant to distribute it to others. The court considered appropriate factors in deciding what length of sentence to impose and explained its application of the various sentencing guidelines in accordance with the framework set forth in *State v. Gallion*, 2004 WI 42, ¶¶39-46, 270 Wis. 2d 535, 678 N.W.2d 197. Therefore, there would be no arguable merit to an appellate challenge to the sentence.

Our independent review of the record also reveals no arguable basis for reversing the judgment of conviction. Therefore, we affirm the judgment and relieve Attorney Chris M. Bailey from further representation of Onela.

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

IT IS FURTHER ORDERED that Attorney Chris M. Bailey is relieved of any further representation of Onela in this matter. *See* 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*