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DISTRICT II

June 27, 2018

To:

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

2018AP309-CRNM State of Wisconsin v. William J. Kieser (L.C. # 2016CF597)

Before Neubauer, C.J., Reilly, P.J., and Gundrum, 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).

William J. Kieser appeals from a judgment of conviction for a seventh offense of operating a motor vehicle with a prohibited blood alcohol concentration (BAC). His appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2015-16)¹ and *Anders*

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

v. California, 386 U.S. 738 (1967). Kieser 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.

Kieser was charged with operating a motor vehicle while under the influence of an intoxicant after he lost control of his motorcycle and it ended up in the ditch. Kieser was hurt and transported to the hospital. The responding officer learned that Kieser was subject to a .02 prohibited alcohol restriction. A blood sample was drawn after a warrant was obtained. The BAC charge was added after the analysis of Kieser's blood reflected an alcohol concentration of .13. Kieser entered a guilty plea to the BAC charge and the other charge and two related noncriminal traffic charges were dismissed. The prosecution agreed to make no specific recommendation to the length or distribution of a prison sentence. Kieser was sentenced to four years' initial confinement and four years' extended supervision.

The no-merit report addresses the potential issues of whether Kieser's plea was freely, voluntarily, and knowingly entered, including whether there was a factual basis for the plea, 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 Kieser 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 Pamela Moorshead is relieved from further representing William J. Kieser 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