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DISTRICT IV

July 9, 2018

To:

Hon. Juan B. Colás
Circuit Court Judge
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William J. Drake II
1819 Aberg Ave.
Madison, WI 53704

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

2016AP2093-CRNM State of Wisconsin v. William J. Drake, II (L.C. # 2015CF1951)

Before Lundsten, P.J., Blanchard, and Fitzpatrick, 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).

Appointed counsel for William Drake filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2015-16)¹ and *Anders v. California*, 386 U.S. 738, 744 (1967). Drake responded to the report, and we ordered a supplemental no-merit report, which we have now received. We

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

conclude that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. We conclude there is no arguable merit to any issue that could be raised on appeal.

Drake pled guilty to one count of burglary. The court imposed a sentence of three years of initial confinement and three years of extended supervision.

In this court's order of January 16, 2018, we identified six additional issues for counsel to review. All of the issues would potentially be a basis for plea withdrawal. In the supplemental no-merit report, counsel states by affidavit that she has spoken with Drake on the phone "multiple times and attempted to set up office visits and phone conferences," but has still not been able to "meaningfully consult" with Drake about the issues discussed in that order.

We understand counsel to be saying that Drake has refused to discuss these issues with her. Because none of these issues can be pursued without Drake's approval and cooperation, we see no reason to discuss them further. Therefore, we do not further address potential issues related to plea withdrawal.

The no-merit report addresses whether the court erroneously exercised its sentencing discretion. The standards for the circuit court and this court on sentencing issues are well established and need not be repeated here. *See State v. Gallion*, 2004 WI 42, ¶¶17-51, 270 Wis. 2d 535, 678 N.W.2d 197. In this case, the court considered appropriate factors, did not consider improper factors, and reached a reasonable result. There is no arguable merit to this issue.

Therefore,

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

IT IS FURTHER ORDERED that Attorney Colleen Marion is relieved of further representation of Drake in this matter. *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