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**DISTRICT I/IV**

August 31, 2018

To:

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Terrence Edward Henderson 401118  
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Redgranite, WI 54970-0925

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

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2016AP1619-CRNM      State of Wisconsin v. Terrence Edward Henderson  
(L.C. # 2014CF2491)

Before Lundsten, P.J., Sherman and Blanchard, 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).**

Attorney William Thomas Croke, appointed counsel for Terrence Henderson, has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2015-16)<sup>1</sup> and *Anders v. California*, 386 U.S. 738 (1967). Counsel provided Henderson with a copy of the report, and both counsel and

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

this court advised him of his right to file a response. Henderson has not responded. After our independent review of the record, we conclude that there is no arguable merit to any issue that could be raised on appeal.

Henderson pled guilty to two counts of delivery of cocaine. The court imposed consecutive sentences, with each having four years of initial confinement and four years of extended supervision.

The no-merit report addresses whether Henderson's pleas were entered knowingly, voluntarily, and intelligently. The plea colloquy sufficiently complied with the requirements of *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906, and WIS. STAT. § 971.08 relating to the nature of the charge, the rights Henderson was waiving, and other matters. The record shows no other ground to withdraw the pleas. There is no arguable merit to this issue.

Two mandatory DNA surcharges were assessed in the judgment of conviction. Because of the multiple DNA surcharges, we previously put these appeals on hold pending the Wisconsin Supreme Court's decision in *State v. Odom*, appeal No. 2015AP2525-CR, which was expected to address whether the imposition of multiple DNA surcharges constitutes "potential punishment" under WIS. STAT. § 971.08(1)(a), so that a defendant must be advised about the surcharges during the plea colloquy. The *Odom* appeal was voluntarily dismissed before oral argument. This case was then held for a decision in *State v. Freiboth*, 2018 WI App 46, \_\_ Wis. 2d \_\_, \_\_ N.W.2d \_\_. *Freiboth* holds that a plea hearing court does not have a duty to inform the defendant about the mandatory DNA surcharge because the surcharge is not punishment and is not a direct consequence of the plea. *Id.*, ¶12. Accordingly, there is no arguable merit to a claim for plea withdrawal based on the assessment of mandatory DNA surcharges.

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.

Our review of the record discloses no other potential issues for appeal.

Therefore,

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

IT IS FURTHER ORDERED that Attorney William Croke is relieved of further representation of Terrence Henderson 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*