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September 11, 2018

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

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2016AP1356-CRNM State of Wisconsin v. Deuce D. Cleghorn (L. C. No. 2015CF2511)

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).**

Deuce Cleghorn appeals from a judgment of conviction for hit and run causing death and hit and run causing great bodily injury. His appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2015-16),[1] and ***Anders v. California***, 386 U.S. 738 (1967).

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

Cleghorn 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, the judgment is summarily affirmed because there is no arguable merit to any issue that could be raised on appeal. *See* WIS. STAT. RULE 809.21.

Cleghorn was operating a stolen car when he ran a stop sign and collided with another car occupied by a family of three. A one-year-old infant suffered severe head trauma and suffers permanent impairments as a result of the accident. The infant's father died at the scene of the accident. The mother was injured but survived. Cleghorn ran from the scene of the accident but left his wallet behind in the stolen car. In addition to the two charges of which he was convicted, the original charges against Cleghorn included hit and run causing injury, operating a motor vehicle without a license causing death, operating a motor vehicle without a license causing great bodily harm, and operating a motor vehicle without the owner's consent. Cleghorn entered a guilty plea to the two hit-and-run charges and the others were dismissed and read-in at sentencing. As part of the plea agreement, the prosecution agreed to recommend a global sentence of twenty years' initial confinement and leave the length of extended supervision to the circuit court's discretion. At sentencing, the plea agreement was complied with. Cleghorn was

sentenced to consecutive terms totaling sixteen years' initial confinement and eleven years' extended supervision.[2]

The no-merit report addresses the potential issues of whether Cleghorn's plea was freely, voluntarily and knowingly entered, whether the sentence was a proper exercise of discretion, and whether Cleghorn's trial counsel was effective.[3] 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 Cleghorn further in this appeal.

Upon the foregoing reasons,

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[2] Cleghorn's plea to multiple counts resulted in the assessment of multiple mandatory DNA surcharges totaling $500, and that potential financial obligation was not addressed during the plea colloquy. We previously put this appeal on hold for a decision in ***State v. Odom***, No. 2015AP2525-CR, which was expected to address whether a defendant could withdraw a plea because the defendant was not advised at the time of his plea that multiple mandatory DNA surcharges would be assessed. The ***Odom*** appeal was voluntarily dismissed before oral argument in the Wisconsin Supreme Court. This appeal 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. Consequently, there is no arguable merit to a claim for plea withdrawal based on the assessment of mandatory DNA surcharges.

[3] The no-merit report indicates that Cleghorn complained to his appellate counsel that trial counsel failed to investigate or emphasize facts that would have proved innocence, including the absence of Cleghorn's DNA in the car and the failure to employ the services of an accident reconstruction expert. Cleghorn also complained that his trial counsel was ineffective by not suggesting a no-contest plea instead of a guilty plea.

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

IT IS FURTHER ORDERED that attorney Michael S. Holzman is relieved from further representing Deuce Cleghorn in this appeal. *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*