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**DISTRICT I**

November 5, 2018

To:

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

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2016AP1272-CRNM      State of Wisconsin v. Cedric Arvel Lemon (L.C. # 2014CF3244)

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

Cedric Arvel Lemon appeals a judgment of conviction entered upon his guilty pleas to two counts of possessing a firearm while a felon. Appellate counsel, Attorney William Thomas Croke, filed a no-merit report pursuant to *Anders v. California*, 386 U.S. 738 (1967), and WIS.

STAT. RULE 809.32 (2015-16).<sup>1</sup> Lemon did not file a response. Based upon our independent review of the record and the no-merit report, we conclude that no arguably meritorious issues exist for an appeal, and we summarily affirm. *See* WIS. STAT. RULE 809.21.

On July 24, 2014, police stopped a car after observing that it had a faulty registration plate lamp and that the two occupants were not wearing seat belts. When the officers approached the car, they observed the passenger, subsequently identified as Lemon, reaching towards the back seat area, and the officers saw a rifle in the back seat. Lemon also disclosed that he had a pistol on his hip, and he then admitted to the officers that he was a felon prohibited from possessing firearms. On July 26, 2014, the State filed a criminal complaint charging Lemon with two counts of possessing a firearm while a felon, each count a Class G felony carrying maximum penalties of ten years of imprisonment and a \$25,000 fine. *See* WIS. STAT. §§ 941.29(2)(a) (2013-14), 939.50(3)(g) (2013-14).

Lemon decided to resolve the charges with a plea bargain. He pled guilty as charged, and the State agreed to recommend four years of initial confinement and four years of extended supervision as a global disposition. At sentencing, the circuit court followed the State's

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

recommendation and imposed concurrent, evenly bifurcated eight-year terms of imprisonment. The circuit court also declared Lemon eligible for the challenge incarceration program.<sup>2</sup>

Soon after sentencing, Lemon moved the circuit court to declare him eligible for the Wisconsin substance abuse program. The circuit court granted the requested relief.<sup>3</sup>

The no-merit report addresses the potential issues of whether Lemon entered his guilty pleas knowingly, intelligently, and voluntarily, and whether the circuit court properly exercised its sentencing discretion. This court is satisfied that appellate counsel properly analyzed these issues, and we agree with appellate counsel that further pursuit of these issues would lack arguable merit. Additional discussion of these issues is not warranted.

Our independent review of the record does not disclose any other potential issues for appeal. We conclude that further postconviction or appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

IT IS ORDERED that the hold previously imposed in this matter is lifted.

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<sup>2</sup> The circuit court also imposed two mandatory DNA surcharges. In light of those surcharges, we previously put these appeals on hold pending the Wisconsin Supreme Court's 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 the plea that he or she faced multiple mandatory DNA surcharges. The supreme court subsequently granted voluntary dismissal of *Odom* before oral argument. We then held these appeals pending a decision in *State v. Freiboth*, 2018 WI App 46, 383 Wis. 2d 733, 916 N.W.2d 613. *Freiboth* holds that "plea hearing courts do not have a duty to inform defendants about the mandatory DNA surcharge." See *id.*, ¶12. Consequently, there is no arguable merit to a claim for plea withdrawal based on the assessment of mandatory DNA surcharges. We therefore lift the hold imposed in these matters and proceed to resolve these appeals.

<sup>3</sup> The Honorable Thomas J. McAdams presided over the pleas and sentencing in this matter and entered the judgment of conviction. The Honorable Frederick C. Rosa, as successor to Judge McAdams's calendar, presided over Lemon's postconviction request for eligibility to participate in the Wisconsin substance abuse program and entered the order granting relief.

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

IT IS FURTHER ORDERED that Attorney William Thomas Croke is relieved of any further representation of Cedric Arvel Lemon on 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*