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**DISTRICT IV**

November 15, 2018

To:

Hon. David Wambach  
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You are hereby notified that the Court has entered the following opinion and order:

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2018AP334-CRNM      State of Wisconsin v. Kelly Braun (L.C. # 2014CF317)

Before Blanchard, Kloppenburg 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).**

Attorney Lane Fitzgerald, appointed counsel for Kelly Braun, has filed a no-merit report seeking to withdraw as appellate counsel pursuant to WIS. STAT. RULE 809.32 (2015-16)<sup>1</sup> and *Anders v. California*, 386 U.S. 738 (1967). Braun was sent a copy of the no-merit report and

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

has filed a response. Upon consideration of the report, Braun's response, and an independent review of the record, we conclude there is no arguable merit to any issue that could be raised on appeal.

Braun was charged with first-degree reckless homicide for supplying the victim with heroin that contributed to the victim's death. The parties entered into a plea agreement under which Braun would plead guilty or no contest to a reduced charge of delivering heroin in an amount of three grams or less, and the parties would jointly recommend a six-year prison term consisting of three years of initial confinement and three years of extended supervision.

The circuit court accepted Braun's guilty plea and sentenced Braun to a ten-year prison term consisting of eight years of initial confinement and two years of extended supervision. The court later amended the sentence to seven and one-half years of initial confinement and two and one-half years of extended supervision, to comply with the bifurcated sentencing requirements in WIS. STAT. § 973.01(2)(b)6m.

The no-merit report addresses whether Braun's guilty plea was knowing and voluntary. Braun's response does not address his plea. The plea colloquy sufficiently complied with the requirements of WIS. STAT. § 971.08 and *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906, relating to the nature of the charges, the rights Braun was waiving, the circuit court's discretion to depart from the parties' joint sentencing recommendation, and other matters. The record shows no other ground to withdraw the plea. There is no arguable merit to this issue.

The no-merit report addresses whether there would be arguable merit to challenging Braun's amended sentence. Braun's response indicates that he believes his amended sentence is "illegal." Braun's response also indicates that, after this appeal was filed, Braun requested

resentencing in the circuit court. The circuit court's docket entries indicate that the circuit court has now granted Braun's resentencing request and imposed a six-year prison term consisting of three years of initial confinement and three years of extended supervision. Accordingly, Braun's sentence is not before us in this appeal.

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 Lane Fitzgerald is relieved of any further representation of Kelly Braun 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*