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DISTRICT II

December 12, 2018

To:

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

2018AP1286-CRNM State of Wisconsin v. Brett L. Hartley (L.C. #2015CF762)

Before Neubauer, C.J., Reilly, P.J., Hagedorn, J.

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).

Brett L. Hartley appeals from a judgment of conviction for two counts of homicide by negligent operation of a motor vehicle. 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). Hartley

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

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.

Hartley dozed off while driving his car and struck and killed two bicyclists. It was 6:30 a.m. and he was driving a friend home after being at a party and up all night. Hartley was twenty years old at the time of the crash. A responding officer detected an odor of intoxicants on Hartley's breath. Hartley consented to a blood draw after he was read the Informing the Accused form.² He was charged with two counts of second-degree reckless homicide. His motion challenging the legality of his arrest and the blood draw was denied.³ Hartley entered a guilty plea to the amended charges. Under the plea agreement, the prosecution recommended two consecutive sentences of three years' initial confinement and three years' extended supervision. The court imposed consecutive sentences totaling seven years of initial confinement and six years of extended supervision.

The no-merit report addresses the potential issues of whether the suppression motion was properly denied, whether Hartley's plea was knowingly, voluntarily, and intelligently entered and whether the sentence was the result of an erroneous exercise of discretion or unduly harsh or excessive. 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.

² Results from the blood test showed Hartley had a blood alcohol level of .052.

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 Hartley further in this appeal.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Dustin C. Haskell is relieved from further representing Brett L. Hartley in this appeal. *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

³ Hartley also moved to suppress statements he made during an interview with a police officer after he invoked his right to counsel. The motion was granted as to questions the officer asked after the point that the court determined Hartley unequivocally invoked his right to counsel.