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DISTRICT II

March 13, 2019

To:

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

2018AP323-CRNM	State of Wisconsin v. Montavius A. Drane (L.C.#2015CF1905)
2018AP324-CRNM	State of Wisconsin v. Montavius A. Drane (L.C. #2016CF448)

Neubauer, C.J., Reilly, P.J., and 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).

In these consolidated appeals, Montavius Drane appeals from judgments convicting him of second-degree recklessly endangering safety contrary to WIS. STAT. § 941.30(2) (2015-16)¹ and felony bail jumping contrary to WIS. STAT. § 946.49(1)(b).

¹ All references to the Wisconsin Statutes are to the 2017-18 version unless otherwise noted.

Drane's appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2017-18) and *Anders v. California*, 386 U.S. 738 (1967). Drane received a copy of the report and was advised of his right to file a response. He has not done so. Upon consideration of the report and an independent review of the record as mandated by *Anders* and RULE 809.32, we summarily affirm the judgments because there are no issues that would have arguable merit for appeal. WIS. STAT. RULE 809.21 (2017-18).

The circuit court sentenced Drane to a seven-year term (four of initial confinement and three years of extended supervision) for second-degree recklessly endangering safety and to two years of consecutive probation for felony bail jumping. Drane received sentence credit.

The no-merit report addresses the following possible appellate issues: (1) whether Drane's guilty pleas were knowingly, voluntarily and intelligently entered; and (2) whether the circuit court misused its sentencing discretion. After reviewing the record, we conclude that counsel's no-merit report properly analyzes these issues and correctly concludes that these issues are without arguable merit. The thorough plea colloquy complied with *State v. Hoppe*, 2009 WI 41, ¶18, 317 Wis. 2d 161, 765 N.W.2d 794. During the colloquy, the circuit court informed Drane of each of the constitutional rights waived by his pleas. Drane's guilty pleas waived all nonjurisdictional defects and defenses. *State v. Popp*, 2014 WI App 100, ¶13, 357 Wis. 2d 696, 855 N.W.2d 471. The circuit court also engaged in a proper exercise of sentencing discretion.

In addition to the issues discussed above, we have independently reviewed the record. Our independent review of the record did not disclose any potentially meritorious issue for

appeal.² Because we conclude that there would be no arguable merit to any issue that could be raised on appeal, we accept the no-merit report, affirm the judgments of conviction and relieve Attorney Jorge Fragoso of further representation of Drane in these matters.

Upon the foregoing reasons,

IT IS ORDERED that the judgments of the circuit court are summarily affirmed pursuant to WIS. STAT. RULE 809.21 (2017-18).

IT IS FURTHER ORDERED that Attorney Jorge Fragoso is relieved of further representation of Montavius Drane in these matters.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Sheila T. Reiff
Clerk of Court of Appeals

² Our independent review of the record reveals that during the plea colloquy, the circuit court did not address the significance of a dismissed and read-in count of second-degree recklessly endangering safety. In *State v. Strazkowski*, 2008 WI 65, ¶5, 310 Wis. 2d 259, 750 N.W.2d 835, the court stated that the trial court should advise the defendant as part of the plea colloquy “that it may consider read-in charges when imposing sentence,” “may require a defendant to pay restitution on any read-in charges,” and the State cannot prosecute a read-in charge in the future. Nevertheless, we conclude that this issue lacks arguable merit for appeal because the circuit court neither referred to nor considered the dismissed and read-in count at sentencing.