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**DISTRICT IV**

May 13, 2019

To:

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

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2018AP462-CRNM	State of Wisconsin v. Brett A. Carlin (L.C. # 2017CF82)
2018AP463-CRNM	State of Wisconsin v. Brett A. Carlin (L.C. # 2017CF83)

Before Lundsten, P.J., Sherman and Blanchard, 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 Tristan Breedlove, appointed counsel for Brett Carlin, has filed a no-merit report seeking to withdraw as appellate counsel pursuant to WIS. STAT. RULE 809.32 (2017-18)<sup>1</sup> and *Anders v. California*, 386 U.S. 738 (1967).<sup>2</sup> Carlin was sent a copy of the report and has filed a response. Upon consideration of the report, the response, and an independent review of the records, we conclude that there is no arguable merit to any issue that could be raised on appeal.

Carlin's convictions were the product of a global plea agreement under which Carlin agreed to plead guilty or no contest to two armed robbery charges, and the State agreed to request dismissal of several other charges. Pursuant to the agreement, the State recommended consecutive sentences on each of the two armed robbery charges, each consisting of five years of initial confinement and three years of extended supervision. The circuit court accepted guilty pleas from Carlin on the two charges, dismissed the remaining charges, and followed the State's sentencing recommendation.

The no-merit report addresses whether Carlin's guilty pleas were knowing, intelligent, and voluntary, and whether the circuit court erroneously exercised its discretion at sentencing. We are satisfied that the report properly analyzes each of these issues as having no arguable merit.

In his response to the no-merit report, Carlin states that there are three claims he wishes to raise. As we now discuss, none of these claims has arguable merit.

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

<sup>2</sup> After the no-merit report was filed, Attorney Suzanne Hagopian was substituted as counsel for Attorney Tristan Breedlove.

Carlin first claims that he was sentenced based on inaccurate information because the circuit court failed to consider his physical disability that led to his heroin addiction. However, Carlin provides no further information as to the disability, and we see nothing in the circuit court's sentencing remarks indicating that the court relied on any inaccurate information. The court took into account Carlin's heroin addiction along with other information that the defense provided in a sentencing memorandum, including Carlin's military service and family history. There is no arguable merit to a claim that the court sentenced Carlin based on inaccurate information.

Carlin next claims that the lack of diversion programs, such as a drug court for non-violent offenders in his county, violates his constitutional rights to due process and equal protection. Regardless whether Carlin is factually correct about the lack of such programs, and regardless whether a constitutional challenge would otherwise be viable, we conclude that this issue lacks arguable merit because there is nothing in the record to suggest that Carlin was an appropriate candidate for this type of program. Although the court acknowledged at sentencing that Carlin's heroin addiction led to his armed robbery crimes, the court also found that a significant prison term was necessary given the severity of the crimes, Carlin's criminal record, and other aggravating factors.

Carlin's third and final claim is that his trial counsel was ineffective by failing to argue that Carlin should be placed in a diversion program. For the reasons already stated, it would be frivolous to argue that counsel was ineffective on this basis.

Our review of the records discloses no other potential issues for appeal.

Therefore,

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

IT IS FURTHER ORDERED that Attorney Suzanne Hagopian is relieved of any further representation of Brett Carlin in these matters. *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*