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May 20, 2019

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

2018AP1974-CRNM State of Wisconsin v. Lana N. Hill (L.C. # 2015CM2878)

Before Brennan, J.¹

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).

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2) (2017-18). All references to the Wisconsin Statutes are to the 2017-18 version unless otherwise noted.

Lana N. Hill appeals from a judgment of conviction for the misdemeanor crimes of hit and run and neglect of a child and from an order denying her postconviction motion. Her appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32, and *Anders v. California*, 386 U.S. 738 (1967). Hill received a copy of the report, was advised of her 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 and order are summarily affirmed because there is no arguable merit to any issue that could be raised on appeal. See WIS. STAT. RULE 809.21.

At 11:00 p.m. on August 17, 2015, South Milwaukee police investigated a driver's complaint that his vehicle was struck from behind while at a stop sign and that the striking vehicle fled the scene without providing any information. Shortly thereafter, police were called to the site of another crash where a light pole had been knocked down. An abandoned car was found that had damage consistent with the earlier crash. It was Hill's vehicle. Police located Hill and she was given and failed field sobriety tests.² While in police custody, Hill requested to call her neighbor because she had left a pot of rice cooking on the stove and it needed to be turned off. Police left a message for the neighbor and a short time later visited Hill's apartment to make sure the message had been acted on. Police found the pot of rice burned and blackened. About an hour after the visit to Hill's apartment, Hill's neighbor contacted police about her concern that Hill's one-year-old child was asleep in a crib and alone in the apartment. Police returned to the apartment and found the child alone.

² In a separate case, Hill was charged with first offense operating under the influence of an intoxicant.

Hill entered a guilty plea. The prosecution agreed to recommend a twelve month sentence stayed in favor of eighteen months of probation with a \$300 fine. The agreed upon sentencing recommendation was made. Hill was sentenced to twelve months stayed in favor of two years' probation. Hill was ordered to pay restitution for the light pole. Hill filed a postconviction motion to withdraw her plea on the ground that the circuit court failed to advise her that she would be subject to mandatory DNA surcharges as a result of her guilty plea. The postconviction motion was denied.³

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

Our review of the record discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit report, affirms the conviction and postconviction motion order, and discharges appellate counsel of the obligation to represent Hill further in this appeal.

Upon the foregoing reasons,

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

³ The circuit court held the postconviction motion in abeyance pending a decision in *State v. Frieboth*, 2018 WI App 46, 383 Wis. 2d 733, 916 N.W.2d 643. The deadline for the circuit court to decide the postconviction motion under WIS. STAT. RULE 809.30(2)(i), was extended to July 20, 2018. *Frieboth*, 383 Wis. 2d 733, renders meritless a claim that during the plea colloquy the circuit court must inform the defendant that mandatory DNA surcharges will be imposed. The postconviction motion was properly denied.

IT IS FURTHER ORDERED that Attorney Carly M. Cusack is relieved from further representing Lana N. Hill 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