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**DISTRICT III**

May 27, 2020

To:

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

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2018AP2190-CRNM     State of Wisconsin v. Jon Allen Yang (L. C. No. 2016CF414)

Before Stark, P.J., Hruz and Seidl, 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).**

Jon Yang appeals from a judgment convicting him of four felony drug counts and an order denying his postconviction motion for resentencing. Attorney Timothy O'Connell has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32

(2017-18).<sup>1</sup> The no-merit report sets forth the procedural history of the case and addresses Yang's pleas, his sentences, and the postconviction motion. Yang was advised of his right to respond to the no-merit report, but he has not done so. Having independently reviewed the entire record as mandated by *Anders v. California*, 386 U.S. 738, 744 (1967), we conclude that counsel is allowed to withdraw and the judgment of conviction and postconviction order are summarily affirmed. *See* WIS. STAT. RULE 809.21.

The charges in this case arose from a months-long investigation of a major drug trafficking organization that was distributing methamphetamine and marijuana in Brown County. Through a combination of information from confidential informants, controlled drug buys, surveillance, wiretaps and a traffic stop, the Brown County Drug Task Force obtained substantial evidence that Yang was acting as an out-of-town runner for the drug trafficking organization. The evidence was set forth in detail in a sealed probable cause portion of the complaint.

Yang eventually pleaded no contest to one count of possession of THC with intent to deliver (>2500-10,000g), one count of possession of amphetamine with intent to deliver (>50g), one count of conspiracy to deliver THC (>2500-10,000g), and one count of conspiracy to deliver amphetamine (>50g), each as a party to the crime. The amphetamine counts were reduced from charges involving methamphetamine. In addition, the State moved to dismiss and read in two additional felony drug charges and agreed to cap the initial confinement portion of its sentence recommendation to fifteen years.

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

The circuit court accepted Yang's pleas after reviewing a signed plea questionnaire with attached jury instructions and conducting a plea colloquy. The court subsequently ordered a presentence investigation report and heard from the parties on sentencing. The court then sentenced Yang to consecutive terms of two years' initial confinement and three years' extended supervision on each of the THC-related counts, and seven years' initial confinement and four years' extended supervision on each of the amphetamine-related counts, for a total of eighteen years' initial confinement and fourteen years' extended supervision.

Yang filed a postconviction motion seeking resentencing on the grounds that the circuit court judge was biased due to a personal relationship he had with someone who had died as a result of the drugs that Yang brought into the community, and that counsel provided ineffective assistance by failing to move for recusal. At a hearing on the motion, the judge made a record that he had attended the wake of Jeffrey Tarkowski, another person involved in the same drug trafficking organization as Yang, who had committed suicide in the Brown County Jail. The judge noted that he had not met Tarkowski outside of Tarkowski's court appearances, but he had a very slight acquaintance with Tarkowski's sister, who was a coworker of a member of the judge's bowling team. The judge said he had referred to Tarkowski's death at Yang's sentencing hearing as a general example of the damage drugs do to a community, rather than for any personal impact Tarkowski's death had upon the judge. The judge concluded that he was neither subjectively nor objectively biased because he did not have any personal relationship with Tarkowski, and he denied the motion for resentencing.

We agree with counsel's description, analysis and conclusion that any challenge to the pleas, sentences, or postconviction order would lack arguable merit. Our independent review of the record discloses no other potential issues for appeal. Additionally, there is no factual basis to

consider any issues outside of the record, given Yang's lack of response to the no-merit report and counsel's representation that his own investigation revealed no other grounds for relief. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders*.

Upon the foregoing,

IT IS ORDERED that the judgment of conviction and order denying postconviction relief are summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that attorney Timothy O'Connell is relieved of any further representation of Jon Yang in this matter pursuant to 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*