



OFFICE OF THE CLERK  
**WISCONSIN COURT OF APPEALS**

110 EAST MAIN STREET, SUITE 215  
P.O. BOX 1688  
MADISON, WISCONSIN 53701-1688  
Telephone (608) 266-1880  
Facsimile (608) 267-0640  
Web Site: www.wicourts.gov

**DISTRICT IV**

October 29, 2020

To:

Hon. Michael A. Haakenson  
Circuit Court Judge  
51 S. Main St.  
Janesville, WI 53545

Vicki Zick  
Zick Legal LLC  
P.O. Box 325  
Johnson Creek, WI 53038

Jacki Gackstatter  
Clerk of Circuit Court  
Rock County Courthouse  
51 S. Main St.  
Janesville, WI 53545

Rachel Ann Belanger 620499  
Taycheedah Correctional Inst.  
P.O. Box 3100  
Fond du Lac, WI 54936-3100

Jodi D. Bollendorf  
Assistant District Attorney  
51 S. Main St.  
Janesville, WI 53545

Criminal Appeals Unit  
Department of Justice  
P.O. Box 7857  
Madison, WI 53707-7857

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

---

2019AP699-CRNM      State of Wisconsin v. Rachel Ann Belanger (L.C. # 2017CM1391)

Before Graham, 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).**

Attorney Vicki Zick has filed a no-merit report seeking to withdraw as appellate counsel for Rachel Belanger pursuant to WIS. STAT. RULE 809.32 (2017-18)<sup>1</sup> and *Anders v. California*, 386 U.S. 738, 744 (1967). The no-merit report addresses the single issue of whether the circuit

---

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

court properly exercised its discretion in sentencing Belanger after the revocation of her probation. Belanger was sent a copy of the report and has not filed a response. Upon consideration of the report and an independent review of the record, we conclude that there is no arguable merit to any issue that could be raised on appeal.

Belanger pled no contest to one count of disorderly conduct as a domestic abuse incident, as a repeater. The circuit court withheld sentence and ordered eighteen months of probation. Belanger's probation was later revoked, and for the sentence after revocation the circuit court imposed one year of initial confinement and one year of extended supervision, to run consecutive to her sentence in another case. The court found Belanger eligible for the Challenge Incarceration Program and Substance Abuse Program, and awarded 45 days of sentence credit. Belanger's appointed counsel filed a no-merit notice of appeal.

An appeal of a sentence following revocation does not bring an underlying conviction before this court. *State v. Drake*, 184 Wis. 2d 396, 399, 515 N.W.2d 923 (Ct. App. 1994). Nor can an appellant challenge the validity of any probation revocation decision in this proceeding. See *State ex rel. Flowers v. DHSS*, 81 Wis. 2d 376, 384, 260 N.W.2d 727 (1978) (probation revocation is independent from the underlying criminal action); see also *State ex rel. Johnson v. Cady*, 50 Wis. 2d 540, 550, 185 N.W.2d 306 (1971) (judicial review of probation revocation is by way of certiorari to the court of conviction). The only potential issue for appeal is the circuit court's imposition of sentence following revocation.

Our review of a sentence determination begins "with the presumption that the trial court acted reasonably, and the defendant must show some unreasonable or unjustifiable basis in the record for the sentence." *State v. Krueger*, 119 Wis. 2d 327, 336, 351 N.W.2d 738 (Ct. App.

1984). We agree with counsel's assessment in the no-merit report that there would be no arguable merit to challenging the circuit court's exercise of its sentencing discretion. The sentence was within the applicable range, and the circuit court expressly considered the facts relevant to the standard sentencing factors and objectives, including the gravity of Belanger's offense, her character, and her rehabilitative needs. See *State v. Gallion*, 2004 WI 42, ¶¶37-49, 270 Wis. 2d 535, 678 N.W.2d 197. Under the circumstances, the sentence imposed here was not “so excessive and unusual and so disproportionate to the offense committed as to shock public sentiment and violate the judgment of reasonable people concerning what is right and proper under the circumstances.” *State v. Grindemann*, 2002 WI App 106, ¶31-32, 255 Wis. 2d 632, 648 N.W.2d 507 (quoted source omitted). Accordingly, we agree with counsel that any challenge to the circuit court's exercise of sentencing discretion would be without arguable merit.

Upon our independent review of the record, we have found no other arguable basis for reversing the judgment. See *State v. Allen*, 2010 WI 89, ¶¶81-82, 328 Wis. 2d 1, 786 N.W.2d 124. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

IT IS ORDERED that the judgment sentencing the defendant after revocation is summarily affirmed. See WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Zick is relieved of any further representation of Rachel Belanger in this matter. See WIS. STAT. RULE 809.32(3).

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

---

*Sheila Reiff*  
*Clerk of Court of Appeals*