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**DISTRICT IV**

December 10, 2020

To:

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

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2018AP91-CRNM

State of Wisconsin v. Christopher B. Vine (L.C. # 2016CF42)

Before Fitzpatrick, P.J., Blanchard, and Kloppenburg, 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 Lane Fitzgerald, appointed counsel for Christopher Vine, has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2017-18)<sup>1</sup> and *Anders v. California*, 386 U.S. 738, 744 (1967). By prior orders, this court informed Attorney Fitzgerald that the court was unable to conclude that it would be wholly frivolous to pursue further proceedings based on Vine's mistrial motion and jury voir dire, a claim of ineffective assistance of counsel, or Vine's assertion that he wished to testify at trial. Attorney Fitzgerald failed to respond to this court's orders. Attorney Michael Covey was subsequently appointed as successor counsel. This court provided Attorney Covey sixty days to inform this court whether he wished to continue this no-merit appeal. The court informed Attorney Covey that, if he wished to continue this no-merit appeal, he was required to explain his conclusion that the issues identified by this court lack arguable merit.

Attorney Covey has now filed a response that does not state that he wishes to continue this no-merit appeal or that he has concluded that the issues this court identified lack arguable merit. Instead, Attorney Covey informs this court that he has reviewed material and consulted with Vine, but that he is not yet able to assess whether any issues in this case have arguable merit. Attorney Covey explains that he has not yet been able to obtain the transcripts from Attorney Fitzgerald, and that if his attempts to obtain the transcripts from Attorney Fitzgerald prove unsuccessful, the State Public Defender will have to order another set of transcripts. Attorney Covey requests an additional sixty days to determine whether there are any issues to pursue in postconviction proceedings.

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

Because Attorney Covey has not informed this court that he wishes to pursue this no-merit appeal or that he has concluded that the issues this court identified would lack arguable merit, we now reject the no-merit report filed by Attorney Fitzgerald and dismiss this no-merit appeal. We extend the time for Attorney Covey to file a postconviction motion, notice of appeal, or no-merit notice of appeal and no-merit report.

Therefore,

IT IS ORDERED that the no-merit report is rejected and this no-merit appeal is dismissed.

IT IS FURTHER ORDERED that the time to file a postconviction motion, notice of appeal, or no-merit notice of appeal and no-merit report is extended to sixty days from the date of this order.

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*