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DISTRICT II

April 7, 2021

To:

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

2019AP1361-CRNM State of Wisconsin v. Jason L. Fink (L.C. #2018CF190)

Before Neubauer, C.J., Reilly, P.J., and Davis, 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).

Jason L. Fink appeals from a judgment convicting him of one count of delivering amphetamine and one count of possession with the intent to deliver amphetamine, both as a repeater. His appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32

(2019-20)¹ and *Anders v. California*, 386 U.S. 738, 744 (1967). Fink received a copy of the report, was advised of his right to file a response, and elected not to do so. Upon consideration of the report and an independent review of the record, we conclude that the judgment may be summarily affirmed because there are no arguably meritorious issues for appeal.² See WIS. STAT. RULE 809.21.

The State filed a complaint charging Fink with eight drug-related counts as follows: three counts of delivery of methamphetamine; one count of possession with intent to deliver methamphetamine; one count of possessing drug paraphernalia; one count of possessing narcotic drugs; one count of maintaining a drug trafficking place; and one count of possessing an illegally obtained prescription. All counts were charged with the WIS. STAT. § 939.62(1) repeater enhancer. Pursuant to a plea agreement, Fink pled guilty to count one, delivery of methamphetamine as a repeater, and to count four, possession with intent to deliver three grams or less of methamphetamine as a repeater. The remaining six counts were dismissed and read in, and the State agreed to cap its recommendation for initial confinement at five years. The parties requested a presentence investigation report. On each of the two counts, the circuit court imposed a bifurcated seven-year sentence comprising four years of initial confinement followed

¹ All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted. The no-merit report was filed by attorney Ellen J. Krahn, who has been replaced by Attorney Megan Sanders-Drazen as Fink’s appellate counsel.

² The judgment of conviction refers to the controlled substance as “amphetamine” while the charging documents and items in the record, including the plea-hearing transcript, show that Fink’s violations involved “methamphetamine.” This minor variance does not give rise to an arguably meritorious issue. Both controlled substances are proscribed by the same statutory provisions. See WIS. STAT. § 961.41(1)(e) (criminalizing the delivery of amphetamine and methamphetamine); § 961.41(1m)(e) (criminalizing the possession with intent to deliver amphetamine and methamphetamine). For clarity’s sake, the circuit court judge may wish to direct the clerk’s office to enter an amended judgment reflecting that Fink was convicted of crimes involving methamphetamine.

by three years of extended supervision. The sentences were ordered to run consecutive to each other. This no-merit appeal follows.

The no-merit report addresses (1) whether Fink's guilty pleas were knowingly, voluntarily, and intelligently entered and (2) whether the circuit court properly exercised its discretion in imposing sentence. This court is satisfied that the no-merit report correctly 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, the court accepts the no-merit report, affirms the judgment of conviction, and discharges appellate counsel of the obligation to further represent Fink in this appeal. Therefore,

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

IT IS FURTHER ORDERED that Attorney Megan Sanders-Drazen is relieved from further representing Jason L. Fink 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