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**DISTRICT I**

November 16, 2021

To:

Hon. Janet C. Protasiewicz  
Circuit Court Judge  
Electronic Notice

John Barrett  
Clerk of Circuit Court  
Milwaukee County  
Electronic Notice

Winn S. Collins  
Electronic Notice

Marcella De Peters  
Electronic Notice

John D. Flynn  
Electronic Notice

James Lee Jefferson Jr. 348737  
Stanley Correctional Inst.  
100 Corrections Drive  
Stanley, WI 54768-6500

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

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2021AP950-CRNM	State of Wisconsin v. James Lee Jefferson, Jr. (L.C. # 2017CF2663)
2021AP951-CRNM	State of Wisconsin v. James Lee Jefferson, Jr. (L.C. # 2018CF1385)

Before Brash, C.J., Donald, P.J., and Dugan, 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).**

James Lee Jefferson, Jr., appeals judgments convicting him of one count of knowingly operating a motor vehicle with a revoked license, causing the death of another, and two counts of armed robbery with threat of force. Attorney Marcella De Peters was appointed to represent Jefferson for postconviction and appellate proceedings. She filed a no-merit report pursuant to

WIS. STAT. RULE 809.32 (2019-20),<sup>1</sup> and *Anders v. California*, 386 U.S. 738, 744 (1967). Jefferson was advised of his right to respond to the no-merit report but he has not responded.<sup>2</sup> After considering the report, and after conducting an independent review of the record as mandated by *Anders*, we conclude that there are no issues of arguable merit that could be raised on appeal. Therefore, we summarily affirm. See WIS. STAT. RULE 809.21.

The no-merit report addresses whether the circuit court erroneously exercised its discretion when it found Jefferson competent to proceed. “A competency determination is functionally a factual finding.” *State v. Smith*, 2016 WI 23, ¶26, 367 Wis. 2d 483, 878 N.W.2d 135. As such, we will affirm the circuit court’s determination that a defendant is competent to stand trial unless the finding “is totally unsupported by facts in the record and, therefore, is clearly erroneous.” *Id.*, ¶29. We agree with the no-merit report’s analysis of this issue and its conclusion that Jefferson was competent to proceed. There would be no arguable merit to this claim.

The no-merit report next addresses whether there would be arguable merit to a claim that Jefferson’s guilty pleas were not knowingly, intelligently, and voluntarily entered. Two circuit court judges presided over Jefferson’s separate plea hearings.<sup>3</sup> The circuit courts conducted colloquies with Jefferson that complied with WIS. STAT. § 971.08 and *State v. Bangert*, 131

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

<sup>2</sup> Jefferson moved to extend the deadline for filing his response. We extended the deadline until September 27, 2021. Jefferson has not responded or sought another extension.

<sup>3</sup> The Honorable Glenn Yamahiro presided over Jefferson’s plea hearing in Milwaukee County Circuit Court case No. 2017CF2663, and dismissed Milwaukee County Circuit Court case No. 2016CF4720 pursuant to the plea agreement. The Honorable David L. Borowski presided over Jefferson’s plea hearing in Milwaukee County Circuit Court case No. 2018CF1385.

Wis. 2d 246, 266-72, 389 N.W.2d 12 (1986). Prior to the plea hearings, Jefferson discussed information pertinent to entering his pleas with his trial counsel, and he reviewed the plea questionnaire and waiver of rights forms with his trial counsel and signed them. *See State v. Moederndorfer*, 141 Wis. 2d 823, 827-28, 416 N.W.2d 627 (Ct. App. 1987) (stating that the circuit court may rely on a plea questionnaire and waiver of rights form in assessing the defendant's knowledge about the rights he or she is waiving). Jefferson acknowledged that the facts set forth in the complaints were accurate and provided an adequate factual basis to convict him of the crimes. Therefore, there would be no arguable merit to an appellate challenge to the pleas.

The no-merit report next addresses whether there would be arguable merit to an appellate challenge to the sentences imposed on Jefferson. In Milwaukee County Circuit Court case No. 2017CF2663, the circuit court imposed ten years of initial confinement and ten years of extended supervision for each count of armed robbery, to be served consecutively.<sup>4</sup> In Milwaukee County Circuit Court case No. 2018CF1385, the circuit court also sentenced Jefferson to three years of initial confinement and three years of extended supervision for operating a motor vehicle with a revoked license, resulting in death, to be served consecutively to the sentence in case No. 2017CF2663. The records establish that the circuit court considered the general objectives of sentencing and applied the sentencing factors to the facts of each case, reaching a reasoned and reasonable result. *See State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76 (stating that the circuit court must identify the factors it considered

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<sup>4</sup> The Honorable Janet C. Protasiewicz sentenced Jefferson for both cases in a single sentencing hearing.

and explain how those factors fit the sentencing objectives and influenced its sentencing decision). There would be no arguable merit to a challenge to the sentences.

Our review of the records disclose no other potential issues for appeal. Accordingly, we accept the no-merit report, affirm the convictions, and discharge appellate counsel of the obligation to further represent Jefferson in these appeals.

IT IS ORDERED that the judgments of the circuit court are summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Marcella De Peters is relieved from further representing Jefferson in these appeals. *See* 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*