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**DISTRICT III**

December 7, 2021

To:

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Outagamie County Courthouse  
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John Alexander Barnes 435071  
Dodge Correctional Institution  
P. O. Box 700  
Waupun, WI 53963-0700

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

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2019AP845-CRNM      State of Wisconsin v. John Alexander Barnes  
(L. C. No. 2016CF781)

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

Counsel for John Barnes has filed a no-merit report concluding there is no basis to challenge Barnes' conviction for felony burglary of an apartment in Appleton. Barnes was advised of his right to respond and has failed to do so. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude there is no merit

to any issue that could be raised on appeal, and we summarily affirm. WIS. STAT. RULE 809.21 (2019-20).<sup>1</sup>

According to the criminal complaint, law enforcement was informed of a burglary of an apartment in Appleton. The victims concluded that the thief must have been a friend with sufficient knowledge to enter through a sliding patio door while they were away at work. Officers discovered that Barnes had pawned three of the items the victims identified as missing. One of the victims subsequently informed law enforcement that she had received the following verbatim messages from Barnes regarding items taken from the apartment:

- Can you call the police and tell them you found that stuff before they go to the pawn shop. I'll do anything that you want me to do. I just don't want them to keep looking because I'll go back to prison. I'm sorry ....
- Can you please call them before Monday when the shops and shit open please ....
- I'll get the [stolen item] first thing when it opens n replace or give u money for it when I get paid could u just leave a message on that cop's phone please anything n what I'll do ... I'm so sorry n I promise I'll make it up to u n I just don't know wat I was thinking but plz just this once can u call plz I'm bagging u. I never should have did this. I made a mistake n I'm srroy plz plz do this for me n I'll mak it up to u I promise just give me a second chance ... I get down on my knees n beg u if u were here I'm so srroy like I said anything u name it u got it.
- I really mean that I'm sorry I've spent almost half my lift in jail n I'm really trying to change something just went wrong in my head that day ur my friend n I wish I never would have done that to u plz forgive me.

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

Barnes pleaded no contest to the charge. At sentencing, the circuit court emphasized Barnes' "significant" criminal record. The court noted "upwards of a dozen adult convictions. Significant juvenile adjudications. Most of his adult life has either been involved in the court system, on paper, whether it's on probation, or extended supervision." The court further concluded:

[I]t's crystal clear in this Judge's mind that John Barnes has to be in a restricted setting. But it is a high priority for this Court that he get treatment on his AODA issues. Not just alcohol or lower level drugs. It's escalated to dangerous, life-threatening drugs ... His addictions are strong and serious.

The circuit court stated that Barnes was "[a] risk to the general public." The court further stated, "there's been such a history of rules violations, whether on parole or extended supervision, or on probation, that in the context of his overall behaviors, it's not warranted in this case to put him on probation." Out of a potential maximum punishment of twelve years' and six months' imprisonment, the court imposed a sentence consisting of two years' and one-month initial confinement and five years' extended supervision.

The no-merit report addresses whether the plea was knowingly, intelligently, and voluntarily entered; and whether the circuit court erroneously exercised its sentencing discretion. This court is satisfied that the no-merit report properly analyzes the issues, and we agree with counsel's conclusions that there are no arguable issues of merit that could be brought on appeal.

We shall not further discuss those issues, and our independent review of the record discloses no other potential issues for appeal.<sup>2</sup>

Upon the foregoing, therefore,

IT IS ORDERED that the judgment is summarily affirmed. WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Timothy T. O'Connell is relieved of further representing John Barnes in this matter. *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 Appeal*

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<sup>2</sup> Although not mentioned in the no-merit report, the sentencing arguments referenced the COMPAS risk assessment. However, the record shows that assessment was not determinative of the sentence imposed. *See State v. Loomis*, 2016 WI 68, ¶¶98-99, 371 Wis. 2d 235, 881 N.W.2d 749.

