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**DISTRICT II**

December 29, 2021

To:

Hon. Mary Kay Wagner  
Circuit Court Judge  
Electronic Notice

Rebecca Matoska-Mentink  
Clerk of Circuit Court  
Kenosha County  
Electronic Notice

Marcella De Peters  
Electronic Notice

Michael D. Graveley  
Electronic Notice

Winn S. Collins  
Electronic Notice

Tion C. Dallas, #300657  
Wisconsin Secure Program Facility  
P.O. Box 1000  
Boscobel, WI 53805-1000

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

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2019AP429-CRNM      State of Wisconsin v. Tion C. Dallas (L.C. #2016CF354)

Before Gundrum, P.J., Neubauer and Reilly, 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).**

Tion C. Dallas appeals from a judgment convicting him of conspiracy to deliver more than forty grams of cocaine. His appellate counsel 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 (1967). Dallas received a copy of the report, was advised of his right to file a response, and has elected not to do so. Upon consideration of the report and an independent review of the record, we conclude that the

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

judgment may be summarily affirmed because there are no issues with arguable merit for appeal. *See* WIS. STAT. RULE 809.21.

Dallas was convicted following a guilty plea to conspiracy to deliver more than forty grams of cocaine. He and another man were apprehended by police while delivering cocaine to a confidential informant. The circuit court sentenced Dallas to five years of initial confinement and eight years of extended supervision. This no-merit appeal follows.

The no-merit report addresses potential issues of whether Dallas' plea was knowingly, voluntarily, and intelligently entered<sup>2</sup> and whether the circuit court properly exercised its discretion at sentencing. 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.<sup>3</sup> Accordingly, this court accepts the no-merit report, affirms the judgment of conviction, and discharges appellate counsel of the obligation to represent Dallas further in this appeal.

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<sup>2</sup> In addressing this issue, appellate counsel acknowledges that trial counsel incorrectly described the maximum bifurcated sentence on the plea questionnaire/waiver of rights form. Trial counsel indicated that it was twenty years of initial confinement and twenty years of extended supervision. In actuality, it was twenty-five years of initial confinement and fifteen years of extended supervision. *See* WIS. STAT. §§ 961.41(1)(cm)4 and 973.01(2). Appellate counsel writes that “it would be impossible to construct an argument that if Mr. Dallas knew he was facing more time he would have taken his chances at trial rather than enter a plea.” Dallas does not challenge this assertion. Moreover, Dallas did not seek to withdraw his plea before sentencing when provided with the correct maximum period of initial confinement via the presentence investigation report. Accordingly, we agree with appointed counsel that trial counsel's mistake does not present a potentially meritorious issue for appeal.

<sup>3</sup> During the plea colloquy, the circuit court failed to provide the deportation warning required by WIS. STAT. § 971.08(1)(c). This failure does not present a potentially meritorious issue for appeal, as there is no indication that Dallas' plea is likely to result in his deportation, exclusion from admission to this country, or denial of naturalization.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Marcella De Peters is relieved of further representation of Tion C. Dallas in this appeal. *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*