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WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688
Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT II

July 20, 2022

To:

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Phillip A. Scales 661531
Wisconsin Resource Center
P.O. Box 220
Winnebago, WI 54985-0220

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

2021AP1150-CRNM State of Wisconsin v. Phillip A. Scales (L.C. #2018CF358)

Before Neubauer, Grogan and Kornblum, 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).

Phillip A. Scales appeals from a judgment convicting him of several crimes. He also appeals from an order deeming his postconviction motion withdrawn. 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 (1967). Scales 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

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

record, we conclude there are no issues with arguable merit for appeal. We summarily affirm the judgment and order. *See* WIS. STAT. RULE 809.21.

Scales was convicted following a jury trial of possession of THC as a second or subsequent offense and two counts of misdemeanor bail jumping, all as a repeater. Police discovered him trespassing at a house with marijuana near him. He admitted to being under the influence. At the time, Scales was out on bond with conditions that he commit no further law violations and possess no controlled substances. For his actions, the circuit court imposed an aggregate sentence of eighteen months in jail.

Scales subsequently filed a postconviction motion alleging ineffective assistance of trial counsel. Specifically, he faulted counsel for failing “to investigate the veracity of assertions made to support the arrest, the search incident to the arrest, and the complaint.” Upon further investigation and reflection, Scales asked to withdraw his postconviction motion. The circuit court granted the request, deeming the postconviction motion withdrawn in a written order. This no-merit appeal follows.

The no-merit report addresses potential issues of (1) whether the evidence at trial was sufficient to support the convictions; (2) whether the circuit court properly exercised its discretion at sentencing; and (3) whether trial counsel was ineffective. This court is satisfied that the no-merit report correctly analyzes the issues it raises as without merit, and we will not discuss them further.

Our review of the record—including jury selection, jury instructions, Scales’ waiver of his right to testify, and opening statements/closing arguments—discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit report, affirms the judgment and

order, and discharges appellate counsel of the obligation to represent Scales further in this appeal.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Brent Simerson is relieved of further representation of Phillip A. Scales 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