



OFFICE OF THE CLERK
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 I

October 28, 2022

To:

Hon. Glenn H. Yamahiro
Circuit Court Judge
Electronic Notice

George Christenson
Clerk of Circuit Court
Milwaukee County
Electronic Notice

John D. Flynn
Electronic Notice

Winn S. Collins
Electronic Notice

Christopher William Rose
Electronic Notice

Nehemias Huertas, Jr.
C/O Attorney Christopher William Rose
5529 6th Avenue
Kenosha, WI 53140

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

2021AP302-CRNM State of Wisconsin v. Nehemias Huertas, Jr. (L.C. # 2018CF1949)

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).

Nehemias Huertas, Jr., by Attorney Christopher William Rose, is pursuing an appeal under the no-merit procedures set forth in WIS. STAT. RULE 809.32 (2019-20).¹ Attorney Rose filed a no-merit report and Huertas filed a response. By order dated July 8, 2022, this court directed Attorney Rose to file either a supplemental no-merit report or, alternatively, a notice of voluntary dismissal and a motion to extend the deadline for pursuing postconviction relief. In

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

response, Attorney Rose states that “it appears that Mr. Huertas may be entitled to an additional 11 days of sentence credit,” and Attorney Rose cites authority in support of that position. Attorney Rose then requests guidance from this court as to how to proceed because he is unable to contact Huertas.

This court cannot give legal advice. *See State v. Pettit*, 171 Wis. 2d 627, 647, 492 N.W.2d 633 (Ct. App. 1992). Instead, the court observes that an appeal may not continue under WIS. STAT. RULE 809.32 unless further appellate proceedings would be frivolous and without any arguable merit. *See* RULE 809.32(3). In this case, the record indicates that a claim that Huertas is entitled to additional sentence credit would not be frivolous. Accordingly, the court concludes that a no-merit appeal is not appropriate. *See id*; *see also McCoy v. Court of Appeals*, 486 U.S. 429, 439 (1988). The court will therefore dismiss this appeal without prejudice and extend the deadline for Attorney Rose to file a postconviction motion or notice of appeal.

IT IS ORDERED that the no-merit report is rejected and this appeal is dismissed without prejudice.

IT IS FURTHER ORDERED that the deadline for filing a postconviction motion or notice of appeal pursuant to WIS. STAT. RULE 809.30 is extended through December 12, 2022. *See* WIS. STAT. RULE 809.82(2)(a).

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Sheila T. Reiff
Clerk of Court of Appeals