



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 II

November 30, 2022

To:

Hon. Paul Bugenhagen Jr.
Circuit Court Judge
Electronic Notice

Monica Paz
Clerk of Circuit Court
Waukesha County Courthouse
Electronic Notice

Gregory Bates
Electronic Notice

Winn S. Collins
Electronic Notice

Donavin P. Hemphill
4024 Roosevelt Drive
Milwaukee, WI 53216

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

2022AP1054-CRNM State of Wisconsin v. Donavin P. Hemphill (L.C. #2019CF253)

Before Gundrum, P.J., Neubauer and Grogan, 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).

Donavin P. Hemphill appeals from a judgment convicting him of several crimes. 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). Hemphill 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 there are no issues with arguable merit for

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

appeal. We summarily affirm the judgment and remand with directions.² See WIS. STAT. RULE 809.21.

Hemphill was convicted following no contest pleas to two counts of delivering cocaine as a second or subsequent offense and one count of delivering cocaine without the enhancer. The counts stemmed from a series of drug transactions in which Hemphill sold cocaine to a confidential informant. Sixteen additional charges were dismissed and read in.³

On one of the counts of delivering cocaine as a second or subsequent offense, the circuit court imposed a sentence of four years of initial confinement and five years of extended supervision. On each of the remaining two counts, it imposed and stayed a sentence of three years of initial confinement and three years of extended supervision and ordered a five-year period of probation.

The no-merit report addresses: (1) whether the circuit court complied with the requirements for accepting the pleas; (2) whether any pretrial issues were preserved despite the entry of the pleas; and (3) whether the circuit court provided a reasonable basis for the sentence imposed. 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.

² There is a clerical error in the judgment of conviction regarding count seven. It indicates that Hemphill was convicted of delivering cocaine as a second or subsequent offense. However, the second-or-subsequent-offense enhancer was struck on that count pursuant to the parties' plea agreement. We remand the matter to the circuit court so that the judgment can be amended to reflect that.

³ The dismissed and read-in charges were ten counts of misdemeanor bail jumping, operating a motor vehicle while revoked, possession of drug paraphernalia, maintaining a drug-trafficking place as a second or subsequent offense, possession with intent to deliver cocaine as a second or subsequent offense, possession of THC as a second or subsequent offense, and possession of a controlled substance as a second or subsequent offense.

Our review of the record discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit report and discharges appellate counsel of the obligation to represent Hemphill further in this appeal.

Upon the foregoing reasons,

IT IS ORDERED that the judgment of the circuit court is summarily affirmed pursuant to WIS. STAT. RULE 809.21 and remanded with directions.

IT IS FURTHER ORDERED that Attorney Gregory Bates is relieved of further representation of Donavin P. Hemphill 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