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DISTRICT I

January 24, 2023

To:

Hon. Jonathan D. Watts
Circuit Court Judge
Electronic Notice

Anna Hodges
Clerk of Circuit Court
Milwaukee County Safety Building
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Winn S. Collins
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Antonio V. Anderson Jr. 663625
Racine Correctional Institution
P.O. Box 900
Sturtevant, WI 53177-0900

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

2021AP1600-CRNM State of Wisconsin v. Antonio V. Anderson, Jr.
(L.C. # 2018CF4905)

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).

Antonio V. Anderson, Jr., appeals a judgment, entered upon a jury's verdicts, convicting him of fleeing resulting in bodily harm and four counts of first-degree recklessly endangering safety while armed with a dangerous weapon. His appellate counsel, Marcella De Peters, has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2019-20) and *Anders v. California*, 386 U.S. 738 (1967).¹ Anderson received a copy of the report, was advised of his right to file a

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

response, and has elected not to do so. Upon consideration of the report and an independent review of the record as mandated by *Anders*, we summarily affirm the judgment because there is no arguable merit to any issue that could be pursued on appeal. *See* WIS. STAT. RULE 809.21.

Anderson faced multiple charges stemming from a high-speed chase with officers from the Milwaukee Police Department. According to the complaint, police officers in a marked squad car saw the driver of a Nissan Altima disregard a flashing red light at an intersection and continue at a high rate of speed. Once the squad car caught up with the Altima, the officers activated their lights and siren. They observed one occupant in the Altima, later identified as Anderson.

The chase lasted twenty minutes and covered approximately twenty-two miles. At times the Altima reached speeds of more than 100 miles per hour. The chase ended when Anderson disregarded a stop sign and struck a Ford Focus occupied by two adults and two children. The children were unharmed, but the two adults suffered injuries and were conveyed to the hospital.

After striking the Ford, Anderson's vehicle crashed through a fence and hit a residence. An officer immediately exited the squad and ran toward the Altima. The officer observed that the front passenger door was open and an individual was running away. The officer eventually caught up with and arrested Anderson.

Following a search of the Altima, the police recovered a loaded handgun, a piece of paper with Anderson's name on it, a flip phone, and synthetic gloves. On the grass near the passenger door, police found a knotted plastic bag containing what appeared to be cocaine base, and along the flight path, another bag of suspected cocaine and a bag of ten pills. Field tests subsequently

confirmed that the substances were cocaine base weighing fourteen grams. The pills were Oxycodone.

Prior to the jury trial, the State filed an amended information with additional charges. Ultimately, Anderson was convicted of fleeing causing bodily harm and four counts of first-degree recklessly endangering safety. He was acquitted of possession with intent to deliver cocaine and possession of narcotic drugs. The circuit court imposed sentences totaling ten years of initial confinement and five years of extended supervision. The circuit court additionally ordered that Anderson was eligible for the Challenge Incarceration and Substance Abuse Programs after serving five years of initial confinement.

The no-merit report discusses whether there was sufficient evidence for findings of guilt and whether the trial court properly exercised its discretion during sentencing. The report sets forth the applicable standard of review and details the evidence that was presented. The report concludes with a discussion of whether the sentence was the result of an erroneous exercise of discretion or can be considered excessive. This court is satisfied that the no-merit report properly analyzes the issues it raises as being without merit. Additionally, this court has concluded that no procedural errors occurred prior to trial.

We will, however, briefly elaborate on the circuit court's denial of Anderson's motion challenging the charges of first-degree recklessly endangering safety on grounds that they were multiplicitous insofar as they stemmed from one accident. The State responded to this argument by highlighting the holding in *State v. Rabe*, 96 Wis. 2d 48, 291 N.W.2d 809 (1980), that "where the crime is against persons rather than property, there are, as a general rule, as many offenses as individuals affected." *See id.* at 67-68. After listening to the parties' arguments, the circuit court

concluded that the charges were not multiplicitous. There would be no arguable merit to pursuing this issue.

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

Upon the foregoing, therefore,

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

IT IS FURTHER ORDERED that Attorney Marcella De Peters is relieved of further representation of Antonio V. Anderson, Jr., in this matter. *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