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**DISTRICT III**

February 14, 2023

To:

Hon. John P. Anderson  
Circuit Court Judge  
Electronic Notice

Vicki Zick  
Electronic Notice

Marge Kelsey  
Clerk of Circuit Court  
Sawyer County Courthouse  
Electronic Notice

James Raymond Fairbanks 676687  
Dodge Correctional Inst.  
P.O. Box 700  
Waupun, WI 53963-0700

Winn S. Collins  
Electronic Notice

Bruce R. Poquette  
Electronic Notice

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

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2021AP486-CRNM      State of Wisconsin v. James Raymond Fairbanks  
(L. C. No. 2019CF278)

Before Stark, P.J., Hruz and Gill, 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).**

Counsel for James Fairbanks has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2019-20),<sup>1</sup> concluding there is no basis for challenging the sentence imposed after revocation of Fairbanks' probation. Fairbanks was informed of his right to respond to the report, and he has not responded. Upon our independent review of the record as mandated by *Anders v.*

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

*California*, 386 U.S. 738 (1967), we conclude there is no arguable merit to any issue that could be raised on appeal. Therefore, we summarily affirm the judgment of conviction. See WIS. STAT. RULE 809.21.

On November 5, 2019, Fairbanks pleaded guilty to one count of attempting to flee or elude a traffic officer, as a repeater, contrary to WIS. STAT. §§ 346.04(3) and 939.62(1)(b). The circuit court withheld sentence and placed Fairbanks on probation for three years. Fairbanks' probation was later revoked and, out of a maximum possible sentence of seven and one-half years, the court imposed a four-year term consisting of two years of initial confinement followed by two years of extended supervision.

An appeal from a judgment imposing sentence after a probation revocation does not bring the underlying conviction before us. See *State v. Drake*, 184 Wis. 2d 396, 399, 515 N.W.2d 923 (Ct. App. 1994). Additionally, the validity of the probation revocation is not the subject of this appeal. See *State ex rel. Flowers v. DHSS*, 81 Wis. 2d 376, 384, 260 N.W.2d 727 (1978) (probation revocation is independent from underlying criminal action); see also *State ex rel. Johnson v. Cady*, 50 Wis. 2d 540, 550, 185 N.W.2d 306 (1971) (judicial review of probation revocation is by petition for certiorari in circuit court). This court's review is therefore limited to issues arising from the sentencing after Fairbanks' probation revocation.

The no-merit report addresses whether the circuit court properly exercised its discretion when imposing the sentence after revocation. Upon reviewing the record, we agree with counsel's description, analysis, and conclusion that any challenge to Fairbanks' sentence after revocation would lack arguable merit. Our independent review of the record discloses no other potential issues for appeal.

Therefore,

IT IS ORDERED that the judgment is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Vicki Zick is relieved of her obligation to further represent James Fairbanks in this matter. *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*