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DISTRICT III

May 23, 2023

To:

Hon. Patrick F. O'Melia
Circuit Court Judge
Electronic Notice

Brenda Behrle
Clerk of Circuit Court
Oneida County Courthouse
Electronic Notice

Philip J. Brehm
Electronic Notice

Winn S. Collins
Electronic Notice

Ronald Peterson 186160
Jackson Correctional Inst.
P.O. Box 233
Black River Falls, WI 54615-0233

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

2021AP1194-CRNM State of Wisconsin v. Ronald Peterson (L. C. No. 2018CF298)

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).

Ronald Peterson appeals from a judgment convicting him of two counts of delivery of oxycodone and one count of possession of oxycodone as well as from an order denying his postconviction motion for sentence modification. Attorney Phillip Brehm has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2021-22).¹ The no-merit report sets forth the procedural history of the case and addresses the sufficiency of the evidence to support the verdicts, the validity of the sentences, whether there are any grounds for sentence modification, and trial counsel's performance. Peterson was advised of his right to

¹ All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

respond to the no-merit report, but he has not filed a response. Having independently reviewed the entire record as mandated by *Anders v. California*, 386 U.S. 738, 744 (1967), we conclude there are no arguably meritorious issues for appeal.

The charges arose out of controlled drug buys in which a confidential informant, acting under the direction of the Lac du Flambeau Tribal Police Department, bought tablets of oxycodone from Peterson on two occasions. At trial, the confidential informant testified about the controlled buys, and a police detective testified that law enforcement recovered additional tablets from Peterson's person when they arrested him. A crime laboratory analyst verified that the tablets tested positive as oxycodone.

The jury found Peterson guilty of all three charged counts, and the circuit court scheduled a sentencing hearing. After hearing from the parties and a police detective involved in the drug investigation, the court discussed proper sentencing factors, including the gravity of the offense, the need to protect the public, and the character of the offender. The court then sentenced Peterson to 365 days with 358 days' credit on the possession count, and seven years' initial confinement followed by three years' extended supervision on each of the two delivery counts—to be served concurrent to each other but consecutive to the possession count.

Peterson moved to modify his sentences to have all three run concurrently. As grounds, he alleged that the circuit court had been unaware of the extent of Peterson's productive work history—leaving the court with the impression that “Peterson was a professional drug dealer who supported himself, not through work, but through illegal drug activity.” The court denied the motion. The court noted that having a full-time job did not preclude also being a drug dealer and

that the additional information about Peterson's employment history would not have led the court to impose a different sentence.

We agree with counsel's description, analysis and conclusion that any challenges to the sufficiency of the evidence, the sentences, the denial of the sentence modification motion, or counsel's performance would lack arguable merit. Our independent review of the record discloses no other potential issues for appeal. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders*. Accordingly, counsel shall be allowed to withdraw, and the judgment of conviction and postconviction order will be summarily affirmed. *See* WIS. STAT. RULE 809.21.

Upon the foregoing,

IT IS ORDERED that the judgment of conviction and postconviction order are summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Philip Brehm is relieved of any further representation of Ronald Peterson in this matter pursuant to 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