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**DISTRICT II**

July 19, 2023

To:

Hon. Bruce E. Schroeder  
Circuit Court Judge  
Electronic Notice

Rebecca Matoska-Mentink  
Clerk of Circuit Court  
Kenosha County Courthouse  
Electronic Notice

Lauren Jane Breckenfelder  
Electronic Notice

Winn S. Collins  
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Michael D. Graveley  
Electronic Notice

Clarence L. Daniels, #245933  
Fox Lake Correctional Inst.  
P.O. Box 200  
Fox Lake, WI 53933-0200

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

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2020AP758-CRNM      State of Wisconsin v. Clarence L. Daniels (L.C. #2016CF559)

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).**

Clarence L. Daniels appeals from a judgment convicting him of numerous crimes and from an order denying his postconviction motion. Attorney Lauren Jane Breckenfelder, as appointed appellate counsel for Daniels, filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2021-22)<sup>1</sup> and *Anders v. California*, 386 U.S. 738 (1967). Counsel provided Daniels with a copy of the report, and Daniels filed two responses. Based upon our review of the

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

no-merit report, responses, and Record, we conclude that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. We conclude that there are no issues of arguable merit that could be raised on appeal. Therefore, we summarily affirm. *See* RULE 809.21.

The State charged Daniels with three counts of delivery of THC and three counts of delivery of heroin, all on or near school grounds and as a second and subsequent offense. The allegation was that, on three separate dates, Daniels sold heroin and THC during a controlled buy to a confidential informant, J.C., at locations within 1,000 feet of school grounds. The Complaint further alleged that Daniels was a repeat drug offender based on a prior conviction for delivery of heroin. For purposes of the trial, Daniels stipulated to the prior conviction that gave rise to the repeater enhancer and also stipulated that he had fifteen prior convictions overall.

At the jury trial, the State elicited testimony from the confidential informant, three police detectives, the forensic chemist who tested the three bags of suspected marijuana and three bags of suspected heroin obtained in the controlled buys, and a City of Kenosha planning technician who testified regarding the location of the controlled buys relative to school grounds. Daniels also testified on his own behalf. During his testimony, Daniels admitted to delivering marijuana and heroin to J.C. on the dates alleged in the Complaint.

The jury returned guilty verdicts on all six counts. At sentencing, the circuit court imposed concurrent sentences of twelve years of initial confinement followed by five years of extended supervision on counts one and three. On counts two, four, and six, the circuit court imposed eighteen months of probation to run consecutively to the sentences on counts one and three. On count five, the circuit court imposed five years of probation, also consecutive to counts one and three.

Daniels filed a postconviction motion requesting a new trial on the basis of ineffective assistance of counsel or, alternatively, modification of his sentence. The motion alleged that Daniels's trial counsel was ineffective under *Strickland v. Washington*, 466 U.S. 668, 687 (1984), for failing to investigate two other instances where individuals reported that they had been set up by the same confidential informant who participated in the controlled buys in this case. The circuit court held an evidentiary hearing pursuant to *State v. Machner*, 92 Wis. 2d 797, 285 N.W.2d 905 (Ct. App. 1979). Daniels and his trial counsel testified at the hearing. The court stated that it did not find Daniels to be reliable or credible and had no reason to disbelieve trial counsel's testimony. The circuit court concluded that the postconviction motion had no merit and denied the motion.

The no-merit report addresses whether there was sufficient credible evidence to support the jury's verdicts, whether any issues arose pretrial or at trial requiring reversal, whether the circuit court properly exercised its sentencing discretion, and whether the circuit court erred in denying Daniels's postconviction motion for a new trial. Upon reviewing the Record, we agree with counsel's description, detailed analysis, and conclusion that none of these issues has arguable merit.

In his responses to the no-merit report, Daniels argues that he is entitled to a new trial on several grounds. With the exception of one issue that we will discuss below, all of the potential issues that Daniels identifies are discussed thoroughly in the no-merit report filed by counsel, and we agree with counsel's conclusion that the issues lack arguable merit.

The only issue Daniels raises that is not specifically discussed in the no-merit report is his assertion that his trial counsel rendered ineffective assistance for failing to call a potential

witness, Tanicea Brown. He claims that Brown's testimony could have been used to attack the credibility of the State's confidential informant. As noted, the postconviction court rejected Brown's claim that trial counsel performed ineffectively for failing to investigate/call other witnesses who would provide such testimony. The court found Daniels's testimony about these witnesses was not credible. Thus, there is no merit to a claim that trial counsel performed ineffectively by failing to call a third witness that Daniels says could have given testimony that would attack the informant's credibility.

Our review of the Record—including Daniels's waiver of his right not to testify—discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit report, affirms the judgment of conviction and order denying Daniels's postconviction motion, and discharges appellate counsel of the obligation to represent Daniels further in this appeal.

IT IS ORDERED that the judgment and order of the circuit court are summarily affirmed.  
WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Lauren Jane Breckenfelder is relieved of her obligation to further represent Clarence L. Daniels 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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*Samuel A. Christensen*  
*Clerk of Court of Appeals*