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**DISTRICT II**

April 3, 2024

To:

Hon. Todd K. Martens  
Circuit Court Judge  
Electronic Notice

Sarah Adjemian  
Clerk of Circuit Court  
Washington County Courthouse  
Electronic Notice

Michael S. Holzman  
Electronic Notice

Jennifer L. Vandermeuse  
Electronic Notice

Donsha Deshon Sutton #444373  
Racine Correctional Inst.  
P.O. Box 900  
Sturtevant, WI 53177-0900

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

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2021AP1992-CRNM      State of Wisconsin v. Donsha Deshon Sutton (L.C. #2019CF1)

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).**

Donsha Deshon Sutton appeals from a judgment convicting him of being a felon in possession of a firearm, second-degree recklessly endangering safety, and two counts of bail jumping. His appellate counsel 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). Sutton filed a response. Counsel then filed a supplemental no-merit report. After reviewing the record, counsel's reports, and

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

Sutton's response, we conclude that there are no issues with arguable merit for appeal. Therefore, we summarily affirm the judgment. *See* WIS. STAT. RULE 809.21.

Sutton was convicted of four felony counts following a jury trial. He was accused of firing several gunshots near a group of people during an altercation in a crowded residential neighborhood. For his actions, the circuit court imposed an aggregate sentence of five years of initial confinement and five years of extended supervision, consecutive to other sentences he was serving. This no-merit appeal follows.

The no-merit report addresses whether the evidence at Sutton's jury trial was sufficient to support his convictions. When reviewing the sufficiency of the evidence, we may not substitute our judgment for that of the jury "unless the evidence, viewed most favorably to the state and the conviction, is so lacking in probative value and force that no trier of fact, acting reasonably, could have found guilt beyond a reasonable doubt." *State v. Poellinger*, 153 Wis. 2d 493, 507, 451 N.W.2d 752 (1990). Our review of the trial transcript persuades us that the State produced ample evidence to convict Sutton of his crimes. That evidence included testimony from neighbors who witnessed the events of the night in question and from members of law enforcement who investigated those events. We agree with counsel that a challenge to the sufficiency of the evidence would lack arguable merit.

As noted, Sutton filed a response to the no-merit report. In it, he appears to accuse his trial counsel of (1) failing to subpoena, to testify at trial, a named State's witness that the State did not call; (2) failing to move to suppress evidence from Sutton's cell phone that was seized during the execution of a search warrant at Sutton's residence; and (3) failing to object to

allegedly racist portions of testimony by a witness. He also accuses the prosecutor of misconduct in her opening statement and closing arguments.

We are not persuaded that Sutton's response presents an issue of arguable merit. As explained in the supplemental no-merit report, Sutton's first two accusations against trial counsel are belied by the record. Meanwhile, there is no record support for Sutton's conclusory assertion that purportedly racist remarks by one witness prejudiced him in any manner. His appellate counsel flatly refutes it, explaining that even assuming that trial counsel should have objected to this witness's testimony, the evidence to convict Sutton was sufficient without this challenged testimony, and nothing else in the record supports Sutton's assertion that trial counsel was ineffective. Likewise, there is no record support for Sutton's conclusory claim of prosecutorial misconduct.

Our independent review of the record—including search warrants, jury selection and composition, jury instructions, Sutton's waiver of his right to testify, opening statements/closing arguments, and sentencing—does not disclose any potentially meritorious issue for appeal. Because we conclude that there would be no arguable merit to any issue that could be raised on appeal, we accept the no-merit report and relieve Attorney Michael S. Holzman of further representation in this matter.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Michael S. Holzman is relieved from further representing Sutton in this appeal. *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*