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WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688
Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT II

November 20, 2024

To:

Hon. William J. Domina
Circuit Court Judge
Electronic Notice

Jennifer L. Vandermeuse
Electronic Notice

Monica Paz
Clerk of Circuit Court
Waukesha County Courthouse
Electronic Notice

Deshawn D. Lay #487580
Green Bay Correctional Inst.
P.O. Box 19033
Green Bay, WI 54307-9033

Timothy C. Drewa
Electronic Notice

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

2024AP879-CRNM State of Wisconsin v. Deshawn D. Lay (L.C. #2020CF672)

Before Gundrum, P.J., Neubauer and Lazar, 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).

Attorney Timothy C. Drewa, appointed counsel for Deshawn D. Lay, filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2021-22)¹ and *Anders v. California*, 386 U.S. 738 (1967). Counsel provided Lay with a copy of the report, and both counsel and this court advised him of his right to file a response. Lay has not responded. We conclude that this case is appropriate for summary disposition. See WIS. STAT. RULE 809.21. After our independent

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

review of the Record, we conclude there is no arguable merit to any issue that could be raised on appeal. We summarily affirm.

Pursuant to a plea agreement with the State, Lay pled no contest to one count of attempting to flee from a police officer.² The charges were based on an incident in which Lay admitted to having driven at high speeds to avoid an attempted traffic stop because Lay's driving privileges were suspended, and he did not want the vehicle he was driving to be towed. The court imposed a sentence of one year of initial confinement and one year of extended supervision. This no-merit appeal follows.

The no-merit report first addresses whether there is any basis for Lay to withdraw his plea. The plea colloquy sufficiently complied with the requirements of *State v. Brown*, 2006 WI 100, ¶35, 293 Wis. 2d 594, 716 N.W.2d 906 and WIS. STAT. § 971.08 relating to the nature of the charge, the rights Lay was waiving, and other matters. Lay submitted a signed plea questionnaire and waiver of rights with the elements of the crimes to which he was pleading attached. He told the circuit court he had discussed the plea questionnaire and the attachment with his attorney and that he fully understood the documents. Lay and his attorney also acknowledged that the criminal complaint formed a sufficient factual basis to find him guilty of the attempt to flee. The Record shows no other ground to withdraw the plea. There is no arguable merit to this issue.

² The plea agreement encompassed several criminal cases involving Lay. Lay's pleas resulted in additional convictions in other cases, as well as several charges being dismissed and read in and one charge being dismissed outright. We do not address any of these additional cases further here, because only the case involving the attempt to flee is before us in this no-merit appeal.

The no-merit report also addresses whether the court erroneously exercised its sentencing discretion. The standards for the circuit court and this court on sentencing issues are well-established and need not be repeated here. *See State v. Gallion*, 2004 WI 42, ¶¶17-51, 270 Wis. 2d 535, 678 N.W.2d 197. In this case, the court considered appropriate factors, did not consider improper factors, and reached a reasonable result. There is no arguable merit to this issue.

Finally, the no-merit report addresses whether the circuit court erred in ruling on Lay's postconviction motion for sentence credit. The report observes that, at sentencing, the court incorrectly awarded Lay zero days of sentence credit. Lay filed a postconviction motion seeking credit, and the postconviction court awarded Lay an additional thirty days of sentence credit. The no-merit report explains that Lay was properly entitled to the thirty additional days of credit. There is no arguable merit to any issue that the postconviction court erred.

Upon our independent review of the Record, we have found no other arguable basis for reversing the judgment. *See State v. Allen*, 2010 WI 89, ¶¶81-82, 328 Wis. 2d 1, 786 N.W.2d 124. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

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 Timothy C. Drewa is relieved from further representing Deshawn D. Lay in this appeal. *See* WIS. STAT. RULE 809.32(3).

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Samuel A. Christensen
Clerk of Court of Appeals