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DISTRICT I

January 15, 2013

To:

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Milwaukee, WI 53233

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

2012AP1998-CRNM State of Wisconsin v. Anthony Lynn Bruce (L.C. #2011CF5306)

Before Curley, P.J., Kessler and Brennan, JJ.

Anthony Lynn Bruce appeals a judgment convicting him of one count of substantial battery. Kaitlin A. Lamb filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2009-10),¹ and *Anders v. California*, 386 U.S. 738, 744 (1967). Bruce was informed of his right to file a response, but he has not done so. After considering the no-merit report and conducting an independent review of the record, we agree with counsel's

¹ All references to the Wisconsin Statutes are to the 2009-10 version unless otherwise noted.

assessment that there are no arguably meritorious appellate issues. Therefore, we summarily affirm the judgment of conviction. *See* WIS. STAT. RULE 809.21.

The no-merit report first addresses whether there would be arguable merit to an appellate challenge to Bruce's guilty plea. The plea colloquy complied in all respects with the requirements of WIS. STAT. § 971.08, and *State v. Bangert*, 131 Wis.2d 246, 266-72, 389 N.W.2d 12 (1986). The circuit court addressed whether Bruce understood the charge against him, the penalties he faced, and the constitutional rights he would be waiving by entering a plea. The circuit court also ascertained that Bruce had reviewed a plea questionnaire and waiver-of-rights form with his attorney and that he understood the information explained on that form. *See State v. Moederndorfer*, 141 Wis. 2d 823, 827-28, 416 N.W.2d 627 (Ct. App. 1987). Bruce admitted the factual basis for the charge, which the circuit court stated on the record. We therefore conclude that there would be no arguable merit to an appellate challenge involving the plea.

The no-merit report next addresses whether there would be arguable merit to a claim that the circuit court misused its sentencing discretion. The circuit court sentenced Bruce to three years of imprisonment, imposed and stayed, in favor of two years of probation, with six months of jail time, which it also stayed. The court followed the recommendations of the parties with regard to sentencing, noting that the sentence was appropriate in light of the nature of the offense, the fact that Bruce did not have a prior record, the fact that he had expressed remorse and had some work history. The circuit court considered the facts of this case in light of the appropriate sentence factors and reached a decision that was both reasoned and reasonable. *See State v. Gallion*, 2004 WI 42, ¶¶39-46, 270 Wis. 2d 535, 678 N.W.2d 197. Therefore, we

conclude that the circuit court properly exercised its discretion. There would be no arguable merit to a challenge to the sentence on appeal.

Our independent review of the record reveals no arguable basis for reversing the judgment of conviction. Therefore, we affirm the judgment of conviction and relieve Kaitlin A. Lamb of further representation of Bruce.

Accordingly,

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

IT IS FURTHER ORDERED that Kaitlin A. Lamb is relieved of any further representation of Bruce in this matter. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals