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DISTRICT II

February 13, 2013

To:

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

2012AP2169-NM

State of Wisconsin v. Norbert J. Maday (L.C. #2007CI1)

Before Neubauer, P.J., Reilly and Gundrum, JJ.

Norbert J. Maday appeals from the Judgment and Commitment Order for Sexually Violent Person entered upon the parties' stipulation. Maday's appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2011-12)¹ and *Anders v. California*, 386 U.S. 738 (1967). Maday was informed of his right to file a response and has exercised his right to do

¹ All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

so.² Upon consideration of the no-merit report and our independent review of the record as mandated by *Anders*, we agree with counsel that there are no issues that would have arguable merit for appeal. We summarily affirm the judgment, *see* WIS. STAT. RULE 809.21, and relieve Attorney Katie R. York of further representing Maday in this matter.

The no-merit report considers whether Maday knowingly, voluntarily, and intelligently stipulated to the commitment. Having given up his right to a jury trial on the determination that he is a sexually violent person as defined in WIS. STAT. ch. 980 in exchange for the stipulation, Maday is entitled to the same due process rights as a criminal defendant who has entered a plea agreement. His stipulation, therefore, must be knowingly, voluntarily, and intelligently entered. *See State v. Van Camp*, 213 Wis. 2d 131, 139, 569 N.W.2d 577 (1997). We agree with counsel's analysis under *State v. Bangert*, 131 Wis. 2d 246, 257, 389 N.W.2d 12 (1986), and her conclusion that there is no arguable merit to the potential issue.

The court addressed Maday personally and at length and gave Maday ample opportunity to address his concerns. The Request to Enter a Stipulation and Waiver of Rights form and the Stipulation both were extensively annotated by Maday, indicating careful attention to each point. The forms indicate that Maday: is seventy-three years old; has twenty-two years of schooling; can read, write, and speak English; had consumed no medications, drugs, or alcohol that compromised his ability to communicate; admitted the allegations in the petition and agreed that the State had sufficient evidence to prove them; understood he was giving up his right to a jury

² In his response, Maday requested a copy of the transcript from the February 14, 2012 hearing at which he stipulated to his commitment. Pursuant to this court's order dated January 28, 2013, appellate counsel certified that she sent the court record and all of the transcripts, including the February 14, 2012 transcript, to Maday on October 9, 2012, and that delivery was confirmed.

trial;³ and had read and fully understood the documents' contents. Maday told the court he went through each point on the forms, and his attorney asserted that never in his over two decades of practice had he reviewed a plea questionnaire so thoroughly as with Maday, making him confident that Maday "understands everything." The detail of the stipulation and the waiver-of-rights form, the court's thorough colloquy, Maday's stated understanding, and counsel's representations satisfy this court that any challenge to the validity of the stipulation would be frivolous.

Upon the foregoing reasons,

IT IS ORDERED that the judgment of the circuit court is summarily affirmed, pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Katie R. York is relieved of further representing Maday in this matter.

Diane M. Fremgen
Clerk of Court of Appeals

³ Maday, a former Catholic priest convicted of molesting young boys, did not waive a bench trial but refused a jury trial because he believed jurors would be ruled by emotion. As the court explained, however, since the State had requested a jury trial, a bench trial no longer was an option for Maday. *See* WIS. STAT. § 980.03(3). This would not present an issue of merit for appeal because Maday's remedy is with the legislature.