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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 III

March 19, 2013

To:

Hon. Jay R. Tlusty
Circuit Court Judge
Lincoln County Courthouse
1110 E. Main Street
Merrill, WI 54452

Cindy Kimmons
Clerk of Circuit Court
Lincoln County Courthouse
1110 E. Main Street, Ste. 205
Merrill, WI 54452

John C. Bachman
John Bachman Law Office
P.O. Box 477
Eau Claire, WI 54702-0477

Donald J. Dunphy
District Attorney
1110 East Main Street
Merrill, WI 54452

Gregory M. Weber
Assistant Attorney General
P.O. Box 7857
Madison, WI 53707-7857

Roberto N. Bruce 517363
Green Bay Corr. Inst.
P.O. Box 19033
Green Bay, WI 54307-9033

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

2013AP184-CRNM State of Wisconsin v. Roberto N. Bruce (L. C. #2011CF18)

Before Hoover, P.J., Mangerson, J., and Thomas Cane, Reserve Judge.

Counsel for Roberto Bruce has filed a no-merit report concluding there is no basis for appealing a sentence imposed after revocation of probation. Bruce was advised of his right to respond and has not responded. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude there is no arguable merit to any issue that could be raised on appeal.

Bruce entered a guilty plea to battery by prisoner. In exchange for his plea, several other charges were dismissed and read in. Bruce's probation was subsequently revoked and the court sentenced him to two years' initial confinement and one year of extended supervision.

Because this appeal arises from a judgment after revocation of probation, Bruce is barred from challenging that judgment or raising issues in this appeal that relate to the underlying conviction. *See State v. Tobey*, 200 Wis. 2d 781, 784, 548 N.W.2d 95 (Ct. App. 1996). Further, revocation is independent from the underlying criminal action. *See State ex rel. Flowers v. DHSS*, 81 Wis. 2d 376, 384, 260 N.W.2d 727 (1978). This court's review is limited to whether the court properly exercised its sentencing discretion.

The record discloses no arguable basis for challenging the sentencing court's discretion. The court considered the proper sentencing factors and the sentence is not excessive or unduly harsh. *See Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975).

IT IS ORDERED that the judgment after revocation of probation is summarily affirmed. *See* WIS. STAT. RULE 809.21 (2011-12).

IT IS FURTHER ORDERED that attorney John Bachman is relieved of further representing Bruce in this matter.

Diane M. Fremgen
Clerk of Court of Appeals