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DISTRICT II

June 1, 2016

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

2015AP753-CRNM State of Wisconsin v. Kyle J. Hansen (L.C. # 2013CF703)

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

Kyle J. Hansen appeals from a judgment of conviction for two counts of the delivery of heroin and the possession with intent to deliver heroin in excess of fifty grams, all with the near a school enhancer. His appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2013-14)¹ and *Anders v. California*, 386 U.S. 738 (1967). Hansen received a copy of the report, was advised of his right to file a response, and has elected not to do so. Upon

¹ All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

consideration of the report and an independent review of the record, we conclude that the judgment may be summarily affirmed because there is no arguable merit to any issue that could be raised on appeal. *See* WIS. STAT. RULE 809.21.

Hansen was charged with seven drugs crimes after he sold heroin to a confidential informant in three controlled drug buys and was found in possession of a large quantity of heroin upon returning from his supplier. His residence was searched pursuant to a search warrant and other controlled substances were found. Hansen was charged as a repeater on each of the seven counts. Hansen's motion to suppress statements to the police was granted and denied in part.² Hansen pled no contest to three counts with the repeater enhancer dismissed. The remaining charges were dismissed as read-ins at sentencing. The plea agreement required the prosecution to make a certain recommendation for concurrent sentences and the prosecutor adhered to the agreement at sentencing. Hansen was sentenced to concurrent terms for a maximum total of ten years' initial confinement and ten years' extended supervision.³

The no-merit report addresses the potential issues of whether the trial court's ruling on the motion to suppress was error, whether Hansen's plea was freely, voluntarily and knowingly entered, and whether the sentence was the result of an erroneous exercise of discretion. This court is satisfied that the no-merit report properly analyzes the issues it raises as without merit, and this court will not discuss them further. Further, we cannot conclude that the sentences when

² A motion to suppress evidence based on a challenge to the warrant and the search of Hansen upon arrest was filed. After the appointment of new counsel, the motion was withdrawn.

³ After sentencing, the department of corrections pointed out to the sentencing court that the two sentences on the delivery convictions of six years' initial confinement and six years' extended supervision exceeded the allowable extended supervision period by one year. The sentencing court ordered the judgment of conviction to be amended to reflect five years' extended supervision on those two counts.

measured against the maximums are so excessive or unusual so as to shock public sentiment. *See Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975).

Our review of the record discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit report, affirms the conviction and discharges appellate counsel of the obligation to represent Hansen further in this appeal.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Timothy T. O'Connell is relieved from further representing Kyle J. Hansen in this appeal. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals