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**DISTRICT III**

November 29, 2018

*To:*

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

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2018AP1049-CRNM      State of Wisconsin v. Sidney D. Bowen (L. C. No. 2017CF30)

Before Stark, P.J., Hruz and Seidl, 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).**

Sidney Bowen appeals a criminal conviction for seventh-offense operating a motor vehicle while intoxicated (OWI). Attorney Alisha McKay has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2015-16);<sup>1</sup> *Anders v. California*, 386 U.S. 738, 744 (1967). The no-merit report addresses whether there are any grounds for challenging Bowen's plea and sentence. Bowen was sent a copy of the report, but has not filed a response. Upon our independent review of the entire record, as well as the no-merit report, we conclude that counsel may be allowed to withdraw and we summarily affirm the judgment of conviction. *See* WIS. STAT. RULE 809.21.

The OWI charge arose out of a traffic stop in which Bowen was initially pulled over for speeding. During the stop, the investigating officer observed signs of intoxication and then administered field sobriety tests, which Bowen failed. A preliminary breath test showed that Bowen had a blood alcohol concentration of 0.196. The officer then arrested Bowen and obtained a warrant for a blood draw.

Bowen entered a plea to the OWI charge in exchange for the dismissal of a companion charge of operating a motor vehicle with a prohibited blood alcohol content and a joint sentencing recommendation that included the mandatory minimum initial confinement. The circuit court accepted the plea after conducting a plea colloquy.

At sentencing, the circuit court adopted the joint recommendation of the parties and sentenced Bowen to three years' initial confinement and three years' extended supervision, along with a \$2000 fine plus costs and surcharges, revocation of operating privileges, and mandatory

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

use of an ignition interlock device for thirty-six months. The court also awarded sixty-three days of sentence credit and imposed several standard conditions of supervision. The court further determined that Bowen was not eligible for the challenge incarceration program, but it declared him eligible for the substance abuse program.

Upon review of the record, we agree with counsel's description, analysis, and conclusion that any challenge to the plea or sentence would lack arguable merit. Our independent review of the record discloses no other potential issues for appeal. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

Accordingly,

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

IT IS FURTHER ORDERED that attorney Alisha McKay is relieved of any further representation of Sidney Bowen in this matter pursuant to WIS. STAT. RULE 809.32(3).

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

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*Sheila T. Reiff*  
*Clerk of Court of Appeals*