



OFFICE OF THE CLERK  
**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](http://www.wicourts.gov)

**DISTRICT IV**

April 29, 2019

To:

Hon. Stephen E. Ehlke  
Circuit Court Judge  
Branch 15  
215 S. Hamilton St., Rm. 7107  
Madison, WI 53703

Carlo Esqueda  
Clerk of Circuit Court  
215 S. Hamilton St., Rm. 1000  
Madison, WI 53703

Jennifer Lohr  
Lohr Law Office LLC  
P.O. Box 5414  
Madison, WI 53705

Rebekah M. Rennie  
Assistant District Attorney  
215 S. Hamilton St., Rm. 3000  
Madison, WI 53703

Criminal Appeals Unit  
Department of Justice  
P.O. Box 7857  
Madison, WI 53707-7857

Phil R. Johnson, Y33339  
Danville Correctional Center  
3820 East Main St.  
Danville, IL 61834

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

---

2018AP2070-CRNM      State of Wisconsin v. Phil R. Johnson (L.C. # 2016CF2658)

Before Lundsten, P.J., Sherman and Fitzpatrick, 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).**

Attorney Jennifer Lohr, appointed counsel for Phil Johnson, has filed a no-merit report seeking to withdraw as appellate counsel pursuant to WIS. STAT. RULE 809.32 (2017-18)<sup>1</sup> and *Anders v. California*, 386 U.S. 738 (1967). Johnson was sent a copy of the report and has not

---

<sup>1</sup> All references to the Wisconsin Statutes are to the 2017-18 version unless otherwise noted.

filed a response. Upon consideration of the report and an independent review of the record, we conclude there is no arguable merit to any issue that could be raised on appeal.

Johnson pled guilty to one count of possession of a narcotic drug. The circuit court withheld sentence and ordered two years of probation. Johnson's probation was later revoked and, as the sentence after revocation, the circuit court accepted the parties' joint recommendation for a sixty-day jail sentence deemed served. Johnson now appeals.

Johnson's appeal from sentencing after revocation does not bring the underlying conviction before us. See *State v. Drake*, 184 Wis. 2d 396, 399, 515 N.W.2d 923 (Ct. App. 1994). Additionally, the validity of the probation revocation is not before us. See *State ex rel. Flowers v. DHSS*, 81 Wis. 2d 376, 384, 260 N.W.2d 727 (1978); see also *State ex rel. Johnson v. Cady*, 50 Wis. 2d 540, 550, 185 N.W.2d 306 (1971) (judicial review of probation revocation is by petition for certiorari in circuit court). Thus, the only potential issues are those relating to the revocation sentence itself.

We agree with counsel that the record discloses no arguable basis to challenge the revocation sentence. As noted, the circuit court accepted the parties' joint sentencing recommendation. Therefore, Johnson is barred from challenging his sentence on appeal. See *State v. Scherreiks*, 153 Wis. 2d 510, 518, 451 N.W.2d 759 (Ct. App. 1989) ("Because defendant affirmatively approved the sentence, he cannot attack it on appeal.").

Our review of the record discloses no other potential issues for appeal.

Therefore,

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

IT IS FURTHER ORDERED that Attorney Jennifer Lohr is relieved of any further representation of Phil Johnson in this matter. *See* WIS. STAT. RULE 809.32(3).

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

---

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