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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

May 24, 2022

To:

Hon. John Zakowski
Circuit Court Judge
Electronic Notice

John VanderLeest
Clerk of Circuit Court
Brown County Courthouse
Electronic Notice

Winn S. Collins
Electronic Notice

Daniel Goggin II
Electronic Notice

David L. Lasee
Electronic Notice

Michael Raymond Harding Jr.
3032 Ferndale Dr.
Green Bay, WI 54313

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

2020AP1272-CRNM State of Wisconsin v. Michael Raymond Harding, Jr.
(L. C. No. 2016CF1404)

Before Stark, Hruz and Gill, 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 Daniel Goggin II, appointed counsel for Michael Raymond Harding, Jr., has filed a no-merit report seeking to withdraw as appellate counsel, pursuant to WIS. STAT. RULE 809.32 (2019-20),¹ and *Anders v. California*, 386 U.S. 738 (1967). The only issue in this no-merit appeal is whether the circuit court erroneously exercised its discretion when sentencing Harding after the revocation of his probation.

¹ All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

After reviewing the no-merit report and the appellate record, this court directed Attorney Goggin to file a response addressing, as a threshold matter, whether this appeal was moot because Harding had finished serving the sentence imposed after the revocation of his probation. In the event Attorney Goggin determined that this appeal was not moot, we directed him to address two issues of potentially arguable merit that we identified.

Attorney Goggin has now filed a response stating that he has confirmed that Harding “completed his term of re-confinement time and was released on supervision on April 12, 2022.” We interpret this statement to mean that Harding has not finished serving the entire sentence imposed after the revocation of his probation. As such, we conclude that this appeal is not moot.

Attorney Goggin’s response further states that he has “discussed with Mr. Harding the status of this case, the potential issues raised in the Court of Appeals[’] orders, and what his current options are as to continuing or dismissing this appeal.” Attorney Goggin’s response then states that Harding “has elected to voluntarily dismiss the appeal.” Attorney Goggin has therefore filed a notice of voluntary dismissal.

Based on Attorney Goggin’s filings, we understand that Harding is seeking to dismiss this appeal and does not intend to file a motion for postconviction relief. With that understanding, we reject the no-merit report and grant Harding’s motion for voluntary dismissal. If Harding does intend to file a motion for postconviction relief, then within five days of the date of this order, Attorney Goggin must move this court to extend the time for filing a postconviction motion.

Therefore,

IT IS ORDERED that the no-merit report is rejected.

IT IS FURTHER ORDERED that this appeal is dismissed pursuant to the appellant's notice of voluntary dismissal.

IT IS FURTHER ORDERED that if the appellant intends to file a postconviction motion, Attorney Goggin must move this court to extend the time for filing a postconviction motion within five days of the date of this order.

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

Sheila T. Reiff
Clerk of Court of Appeals