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February 11, 2014

To:

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

2013AP2076-CRNM State of Wisconsin v. Jotaviaous J. Cheese (L.C. #2011CF5685)

Before Curley, P.J.

By order dated January 13, 2014, this court directed Attorney Matthew S. Pinix, appellate counsel for Jotaviaous J. Cheese, to file a supplemental no-merit report regarding two sentencing issues. Counsel now advises that, in his view, one of the issues presents an arguably meritorious basis for further postconviction proceedings. Counsel therefore seeks voluntary dismissal of the no-merit appeal and an extension of the deadline for seeking postconviction relief in the circuit court. A no-merit proceeding is appropriate only if counsel is convinced that an appeal would be

wholly frivolous. *McCoy v. Court of Appeals*, 486 U.S. 429, 437 (1988). Accordingly, the court will grant the motion.

IT IS ORDERED that the no-merit report is rejected and this appeal is dismissed without prejudice.

IT IS FURTHER ORDERED that the deadline for filing a postconviction motion or notice of appeal is extended through April 11, 2014. *See* WIS. STAT. RULE 809.82(2)(a) (2011-12).

Diane M. Fremgen
Clerk of Court of Appeals