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**DISTRICT II**

March 4, 2026

To:

Hon. Laura J. Lavey  
Circuit Court Judge  
Electronic Notice

Michelle Weber  
Clerk of Circuit Court  
Fond du Lac County Courthouse  
Electronic Notice

John Blimling  
Electronic Notice

Amy E. Gunderson  
Electronic Notice

Freddie Gray #452893  
Oshkosh Correctional Inst.  
P.O. Box 3310  
Oshkosh, WI 54903-3310

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

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2025AP1332-CRNM      State of Wisconsin v. Freddie Gray (L.C. #2021CF509)

Before Neubauer, P.J., Gundrum, and Grogan, 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).**

Freddie Gray appeals from a circuit court judgment sentencing him to prison following the revocation of his probation. Attorney Amy E. Gunderson has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2023-24);<sup>1</sup> *Anders v. California*, 386 U.S. 738, 744 (1967); and *State ex rel. McCoy v. Wisconsin Ct. of Appeals, Dist. I*, 137 Wis. 2d 90, 403 N.W.2d 449 (1987), *aff'd*, 486 U.S. 429 (1988). Gray was sent a

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2023-24 version.

copy of the no-merit report, and both counsel and this court advised him of his right to file a response. Although Gray requested, and this court granted, an extension of time in which to file a response, he has not responded. Upon reviewing the entire Record and the no-merit report, we conclude that there are no issues of arguable merit for appeal. Therefore, we summarily affirm the judgment. *See* WIS. STAT. RULE 809.21.

We first note that an appeal from a sentence following revocation does not bring an underlying conviction before this court. *State v. Drake*, 184 Wis. 2d 396, 399, 515 N.W.2d 923 (Ct. App. 1994). Nor can an appellant challenge the validity of any probation revocation decision in this proceeding. *See State ex rel. Flowers v. DHSS*, 81 Wis. 2d 376, 384, 260 N.W.2d 727 (1978) (probation revocation is independent from the underlying criminal action); *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 way of certiorari to the court of conviction). The only potential issue for appeal is the circuit court's imposition of sentence following revocation.

Our review of a sentence determination begins “with the presumption that the trial court acted reasonably, and the defendant must show some unreasonable or unjustifiable basis in the record for the sentence[.]” *State v. Krueger*, 119 Wis. 2d 327, 336, 351 N.W.2d 738 (Ct. App. 1984). Here, the Record shows that Gray was afforded the opportunity to comment on the revocation materials and to address the court prior to sentencing. The court considered the standard sentencing factors and explained their application to this case. *See generally State v. Gallion*, 2004 WI 42, ¶¶39-46, 270 Wis. 2d 535, 678 N.W.2d 197. The court discussed on the Record the severity of the offense, Gray's character, his history of violating the terms of his probation, and the need to protect the public from Gray's behavior which, in this case, involved possession of large amounts of illegal drugs. The no-merit report states that the sentencing court

exhibited the requisite familiarity with Gray's original plea and sentencing proceedings and did not rely on inaccurate information at sentencing, and there are no new factors that may affect the sentence after revocation; our review of the Record confirms these assertions.

The sentencing court concluded that this was a case where prison was necessary to address Gray's need for rehabilitation and the court's concerns for public safety. The court sentenced Gray to an aggregate of two and one-half years of initial confinement and four years of extended supervision for his two underlying convictions for possession of THC as a second or subsequent offense and possession of methamphetamine. The court granted him eligibility for the challenge incarceration program (CIP) and substance abuse program (SAP) and awarded 38 days of sentence credit.

The sentence imposed after revocation was within the applicable penalty range. *See* WIS. STAT. §§ 961.41(3g)(e) (classifying possession of THC as a second or subsequent offense as a Class I felony); 961.41(3g)(g) (classifying possession of methamphetamine as a Class I felony); 939.50(3)(i) (providing maximum imprisonment term of three years and six months for Class I felonies). There is a presumption that a sentence “well within the limits of the maximum sentence” is not unduly harsh, and the sentence imposed here was not “so excessive and unusual and so disproportionate to the offense committed as to shock public sentiment and violate the judgment of reasonable people concerning what is right and proper under the circumstances.” *State v. Grindemann*, 2002 WI App 106, ¶¶31-32, 255 Wis. 2d 632, 648 N.W.2d 507 (citations omitted). Having reviewed the Record and the no-merit report, we agree with counsel that there would be no arguable merit to challenging Gray's sentence imposed after revocation.

Upon our independent review of the Record, we have found no other arguable basis for reversing the judgment. *See State v. Allen*, 2010 WI 89, ¶¶81-82, 328 Wis. 2d 1, 786 N.W.2d 124. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Amy E. Gunderson is relieved from further representing Freddie Gray in this appeal. *See* WIS. STAT. RULE 809.32(3).

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

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*Samuel A. Christensen*  
*Clerk of Court of Appeals*