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DISTRICT I

March 18, 2014

To:

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

2013AP441-CRNM State of Wisconsin v. Turnell Q. Lewkowski (L.C. #2012CF579)

Before Curley, P.J.

Turnell Q. Lewkowski filed an appeal with the assistance of appointed counsel, who submitted a no-merit report on Lewkowski's behalf. By order dated September 23, 2013, we directed appointed counsel to file a supplemental no-merit report. Subsequently, the state public defender sought leave to appoint successor counsel, and, by order dated November 18, 2013, we held this appeal in abeyance to permit successor counsel to review the file and decide how to proceed. Successor counsel, Attorney Michael J. Backes, filed a status report on February 27,

2014, advising that he intended to move to dismiss this appeal to permit pursuit of a postconviction motion. This court then established a deadline for Lewkowski to file the contemplated motion. He now moves for an order dismissing this appeal and extending the deadline for filing a postconviction motion. A no-merit proceeding is appropriate only if counsel is convinced that postconviction proceedings would be wholly frivolous. *See McCoy v. Court of Appeals*, 486 U.S. 429, 437 (1988). Accordingly, the court will grant the relief requested.

IT IS ORDERED that the hold previously placed on this matter is lifted.

IT IS FURTHER ORDERED that the no-merit report filed in this matter 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 30, 2014. *See* WIS. STAT. RULE 809.82(2)(a) (2011-12).

Diane M. Fremgen
Clerk of Court of Appeals