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DISTRICT II

December 11, 2024

To:

Hon. Kristine E. Drettwan
Circuit Court Judge
Electronic Notice

Andrew R. Herrmann
Electronic Notice

Michele Jacobs
Clerk of Circuit Court
Walworth County Courthouse
Electronic Notice

David Malkus
Electronic Notice

Kyle D. Moegenburg
300 E. Flint Street
Lyndon Station, WI 53944

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

2024AP965-CRNM State of Wisconsin v. Kyle D. Moegenburg (L.C. #2021CM294)

Before Gundrum, P.J.¹

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).

Kyle D. Moegenburg appeals from a judgment convicting him of possession of THC and possession of drug paraphernalia. His appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32 and *Anders v. California*, 386 U.S. 738 (1967). Moegenburg received a copy of the report, was advised of his right to file a response, and has elected not to do so. Upon consideration of the report and an independent review of the record, this court concludes there

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(f) (2021-22). All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

are no issues with arguable merit for appeal. Therefore, this court summarily affirms the judgment. *See* WIS. STAT. RULE 809.21.

Moegenburg was convicted following a jury trial of possession of THC and possession of drug paraphernalia. Probation agents discovered the items during a search of Moegenburg's apartment after he was taken into custody on a probation hold. For his actions, the circuit court imposed a \$500 fine and court costs. This no-merit appeal follows.

The no-merit report addresses (1) whether the evidence was sufficient to convict Moegenburg; (2) whether the circuit court properly imposed its sentence; and (3) whether any other issue arose before or during trial requiring reversal. This court is satisfied that the no-merit report correctly analyzes the issues it raises as without merit, and this court will not discuss them further.

A review of the record—including jury selection, jury instructions, Moegenburg's waiver of his right to testify, and opening statements/closing arguments—discloses no other potential issues for appeal. Accordingly, this court accepts the no-merit report, affirms the judgment of conviction, and discharges appellate counsel of the obligation to represent Moegenburg further in this appeal.

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 David Malkus is relieved of further representation of Kyle D. Moegenburg in this appeal. *See* WIS. STAT. RULE 809.32(3).

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

Samuel A. Christensen
Clerk of Court of Appeals