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**DISTRICT III**

March 4, 2025

To:

Hon. Michael A. Schumacher  
Circuit Court Judge  
Electronic Notice

Cherie Norberg  
Clerk of Circuit Court  
Eau Claire County Courthouse  
Electronic Notice

Jeremy Newman  
Electronic Notice

Jennifer L. Vandermeuse  
Electronic Notice

Juan A. Olivarez 710415  
Wisconsin Secure Program Facility  
P.O. Box 1000  
Boscobel, WI 53805-1000

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

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2024AP1357-CRNM      State of Wisconsin v. Juan A. Olivarez (L. C. No. 2020CF547)

Before Stark, P.J., 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).**

Juan A. Olivarez appeals from an amended judgment of conviction that was entered following his resentencing on a felony murder charge. Attorney Jeremy Newman has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2023-24).<sup>1</sup> Olivarez was advised of his right to file a response to the no-merit report, but he has not done so. Upon our independent review of the record as mandated by *Anders v. California*,

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

386 U.S. 738 (1967), we conclude that there is no arguable merit to any issue that could be raised on appeal. Therefore, we summarily affirm the amended judgment of conviction. *See* WIS. STAT. RULE 809.21.

The State initially charged Olivarez with a single count of first-degree intentional homicide, as a party to a crime. Ultimately, the circuit court granted the State leave to file an amended Information containing six counts, each as a party to a crime: Count 1—first-degree reckless homicide; Count 2—felony murder during an attempted armed robbery; Count 3—felony murder during a burglary while armed with a dangerous weapon; Count 4—first-degree reckless injury with use of a dangerous weapon; Count 5—aggravated battery with use of a dangerous weapon; and Count 6—burglary (commit battery on a person) with use of a dangerous weapon.

Pursuant to a plea agreement, Olivarez entered guilty pleas to Counts 2 and 5, and the remaining charges were dismissed and read in. The circuit court subsequently sentenced Olivarez to nineteen years' initial confinement followed by five years' extended supervision on Count 2, the felony murder during an attempted armed robbery charge. On Count 5, the aggravated battery charge, the court imposed a concurrent sentence of three years' initial confinement followed by three years' extended supervision.<sup>2</sup>

The Department of Corrections later wrote to the circuit court and asserted that Olivarez's sentence on Count 2 violated WIS. STAT. § 973.01(2)(b)10., which provides that, for

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<sup>2</sup> No postconviction motion or notice of appeal was filed from Olivarez's original judgment of conviction.

any crime other than a Class B through a Class I felony or an attempt to commit a classified felony, “the term of confinement in prison may not exceed 75 percent of the total length of the bifurcated sentence.”<sup>3</sup> The State and Olivarez agreed that Olivarez’s sentence on Count 2 violated the seventy-five percent rule in § 973.01(2)(b)10., and they further agreed that Olivarez was entitled to resentencing.

The circuit court subsequently held a resentencing hearing, during which it vacated Olivarez’s original sentence on Count 2. The court then resentenced Olivarez to eighteen years’ initial confinement followed by six years’ extended supervision on Count 2.<sup>4</sup> The court entered an amended judgment of conviction reflecting Olivarez’s new sentence on Count 2. This no-merit appeal from the amended judgment of conviction follows.

The no-merit report addresses whether there would be any arguable merit “to a claim that Mr. Olivarez’s sentence imposed at resentencing is unlawful or otherwise subject to challenge.” In particular, appellate counsel asserts that: (1) there would be no arguable merit to a claim that the circuit court erroneously exercised its discretion when resentencing Olivarez on Count 2; (2) counsel is not aware of any new factor that would provide a basis to move for sentence modification; and (3) counsel is not aware that the court relied on any inaccurate information during the resentencing hearing. Upon our independent review of the record, we agree with appellate counsel’s description, analysis, and conclusion that any challenge to the sentence

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<sup>3</sup> Felony murder is an unclassified felony. *See* WIS. STAT. § 940.03.

<sup>4</sup> During the resentencing hearing, the circuit court stated that it was “not going to address Count 5 a second time” because “neither the Department of Corrections nor anyone else ... has challenged [that sentence] for some legal insufficiency.” Olivarez did not dispute the court’s statement in that regard or argue that he should also be resentenced on Count 5.

imposed at resentencing would lack arguable merit. We therefore do not address that issue further.

Our independent review of the record discloses no other potential issues for appeal.

Therefore,

IT IS ORDERED that the amended judgment is summarily affirmed. WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Jeremy Newman is relieved of further representation of Juan A. Olivarez in this matter. *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*