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DISTRICT I

July 12, 2013

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

2012AP2751-CRNM State of Wisconsin v. Andrew S. Essien
(L.C. #2010CF2350)

Before Curley, P.J.

Andrew S. Essien appeals from convictions for three counts of robbery as a party to a crime. Appellate counsel, Kaitlin A. Lamb, filed a no-merit report pursuant to *Anders v. California*, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32 (2011-12),¹ to which Essien has not responded. On June 7, 2013, we directed Attorney Lamb to file a supplemental report on two

¹ All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

issues: one relating to a read-in crime and one relating to the DNA surcharge. We also noted that in the alternative, if she determined that there was merit to any issue, she could move to dismiss the appeal and request an extension of time in which to file a postconviction motion under WIS. STAT. RULE 809.30(2)(h).

Attorney Lamb now moves to dismiss the no-merit appeal and extend the time to file a postconviction motion on Essien's behalf. The motion explains that Attorney Lamb considered the issues identified in this court's order and "determined that there is arguable merit for an appeal." She also indicated that she "conveyed her analysis to Mr. Essien" and that he "has instructed counsel to move to dismiss this appeal" and request an extension of time to file a postconviction motion. Because a no-merit report is only appropriate if counsel is convinced that an appeal would be wholly frivolous, *McCoy v. Court of Appeals*, 486 U.S. 429, 437 (1988), this court will grant the motion.

IT IS ORDERED that the no-merit report in appeal No. 2012AP2751-CRNM is rejected and the appeal is dismissed without prejudice.

IT IS FURTHER ORDERED that the deadline for Attorney Kaitlin A. Lamb to file a postconviction motion on Essien's behalf is extended to sixty days from the date of this order. *See* WIS. STAT. RULE 809.82(2)(a) (2011-12).

*Diane M. Fremgen
Clerk of Court of Appeals*