

**COURT OF APPEALS
DECISION
DATED AND FILED**

February 13, 2007

A. John Voelker
Acting Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2006AP165-CR

Cir. Ct. No. 2000CF5499

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

WILLIE F. RILEY,

DEFENDANT-APPELLANT.

APPEAL from an order of the circuit court for Milwaukee County:
MEL FLANAGAN, Judge. *Affirmed.*

Before Fine, Curley and Kessler, JJ.

¶1 PER CURIAM. Willie F. Riley appeals from a circuit court order denying his motion for reconsideration of a prior order denying his motion for sentence correction. Because the circuit court correctly concluded that it had

authority to impose a sentence consecutive to a revocation sentence Riley was serving at the time he was sentenced in the case underlying this appeal, we affirm.

¶2 Riley was convicted of theft in 1998. The circuit court imposed and stayed a three-year sentence and placed Riley on probation. While on probation, Riley committed three new offenses: one count of second-degree reckless homicide while armed and two counts of first-degree reckless endangerment. While these charges were pending, Riley's probation on the theft offense was revoked on December 14, 2000. On March 21, 2001, the circuit court imposed global sentences on the new offenses totaling twenty years of imprisonment, consisting of thirteen years of initial confinement and seven years of extended supervision. The sentences were ordered to run concurrent with each other and consecutive to any other sentence.

¶3 Riley's appeal is confined to one issue: whether the circuit court lacked authority to impose a sentence consecutive to his theft sentence because it was a "probation case." Riley argues that the circuit court did not have authority, relying on *State v. Maron*, 214 Wis. 2d 384, 571 N.W.2d 454 (Ct. App. 1997).

¶4 Riley misapprehends *Maron*. *Maron* stands for the proposition that a circuit court shall not impose a prison sentence consecutive to a term of probation under WIS. STAT. § 973.15(2)(a) (2003-04).¹ *Maron*, 214 Wis. 2d at 395. Here, Riley's term of probation came to an end upon its revocation on

¹ All references to the Wisconsin Statutes are to the 2003-04 version unless otherwise noted. WISCONSIN STAT. § 973.15(2)(a) provides as follows: "Except as provided in par. (b), the court may impose as many sentences as there are convictions and may provide that any such sentence be concurrent with or consecutive to any other sentence imposed at the same time or previously."

December 14, 2000. At that point in time, he began serving the three-year term that was imposed and stayed in 1998 for his theft conviction. Accordingly, Riley was serving a sentence at the time of his sentencing on March 21, 2001 for second-degree homicide and multiple counts of first-degree reckless endangerment. Under § 973.15(2)(a), the circuit court had full authority to order the sentences served consecutively to his theft sentence. *Cf. State v. Thompson*, 208 Wis. 2d 253, 559 N.W.2d 917 (Ct. App. 1997) (holding § 973.15(2)(a) authorizes the circuit court to impose a sentence consecutive to a previously imposed but stayed sentence). Accordingly, we reject Riley's challenge to the circuit court's sentencing.

By the Court.—Order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5.

