

**COURT OF APPEALS
DECISION
DATED AND FILED**

July 11, 2007

David R. Schanker
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. 2006AP2115-CR

Cir. Ct. No. 2004CF65

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT II**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

CHRISTIAN J. STEINHAUS,

DEFENDANT-APPELLANT.

APPEAL from a judgment and an order of the circuit court for Calumet County: T. J. GRITTON, Judge. *Affirmed.*

Before Snyder, P.J., Brown and Anderson, JJ.

¶1 PER CURIAM. Christian J. Steinhaus appeals from a judgment convicting him of felony bail jumping and from an order denying credit for time served in prison on a subsequently imposed probation term for the same crime. Wisconsin law does not support this claim, and we affirm the circuit court's

refusal to reduce the probation term to reflect time served in prison. We also affirm the judgment of conviction.

¶2 The circuit court originally sentenced Steinhaus to a four-year term for felony bail jumping. After Steinhaus served approximately nine months of the sentence, the court vacated the original four-year sentence and placed Steinhaus on four years of probation¹ commencing on the date of the resentencing hearing. The court did not award credit against the probation term for the time Steinhaus served on the original prison sentence. Steinhaus sought resentencing and argued that his prison time should be credited against the four-year probation term. The court denied the motion, noting that the four-year probation term keeps Steinhaus within the department of corrections' control and supervision for the same period as the original four-year sentence.

¶3 On appeal, Steinhaus renews his argument that WIS. STAT. § 973.04 (2005-06)² and equitable considerations warrant reducing his probation term by the amount of time he spent in prison on the original sentence. Section 973.04 states:

When a sentence is vacated and a new sentence is imposed upon the defendant for the same crime, the department shall credit the defendant with confinement previously served.

¶4 The interpretation of a statute presents a question of law that we decide independently of the circuit court. *State v. Stenklyft*, 2005 WI 71, ¶7, 281

¹ The circuit court also imposed twelve months of condition time, which is not at issue in this appeal.

² All subsequent references to the Wisconsin Statutes are to the 2005-06 version unless otherwise noted.

Wis. 2d 484, 697 N.W.2d 769. WISCONSIN STAT. § 973.04 speaks in terms of a “sentence.” Probation is not a sentence. *State v. Maron*, 214 Wis. 2d 384, 389-91, 571 N.W.2d 454 (Ct. App. 1997). “Sentence” has long been held to exclude a term of probation. The legislature is presumed to know the meaning of the words it selects, and we presume that the legislature chooses its terms carefully and with precision to express its meaning. *Johnson v. City of Edgerton*, 207 Wis. 2d 343, 351, 558 N.W.2d 653 (Ct. App. 1996). We further “presume that the legislature acts with full knowledge of existing case law when it enacts a statute.” *State v. Grady*, 2006 WI App 188, ¶9, 296 Wis. 2d 295, 722 N.W.2d 760, *review granted*, 2007 WI 16, 727 N.W.2d 34 (No. 2005AP2424-CR). In other words, the probation term is not a “new sentence” within the meaning of § 973.04. We conclude that § 973.04 does not entitle Steinhaus to credit on his probation term for confinement previously served.

¶5 Finally, we note that the circuit court had the discretion to modify the probation term in response to Steinhaus’ arguments. The court stated its reasons for imposing the four-year probation term and declining to reduce that term by the time spent in prison on the original sentence. Steinhaus did not convince the circuit court that a reduction in the probation term was warranted.

By the Court.—Judgment and order affirmed.

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

