COURT OF APPEALS
DECISION
DATED AND FILED

October 10, 2007

David R. Schanker
Clerk of Court of Appeals

Appeal No. 2006AP1453 **Cir. Ct. No. 2005CV6921**

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT I

STATE OF WISCONSIN EX REL. PASCHALL L. SANDERS, III,

PETITIONER-APPELLANT,

V.

DAVID H. SCHWARZ, ADMINISTRATOR, DIVISION OF HEARINGS AND APPEALS,

RESPONDENT-RESPONDENT.

APPEAL from an order of the circuit court for Milwaukee County: DANIEL A. NOONAN, Judge. *Affirmed*.

Before Wedemeyer, Fine and Kessler, JJ.

¶1 PER CURIAM. Paschall Sanders, III, appeals from the order of the circuit court that affirmed the decision of the administrative law judge that his revocation of parole had been proper and there were no grounds for reopening the

matter. Sanders argues that his right to confront witnesses was violated in the initial revocation proceeding, and that this court should reinstate his previously revoked good time credit. Because we conclude that the circuit court acted properly when it affirmed the Division of Hearings and Appeals, and refused to reopen Sanders' parole revocation hearing, we affirm.

¶2 This appeal stems from a parole revocation decision. Sanders was convicted of rape and sexual perversion and sentenced to twenty-five years in prison. He was released on parole in 1986. At that time, he had twelve years, six months, and twenty-eight days of good time credit. In 1993, his parole was revoked because he forced a minor to have sexual contact with him, he failed to report for supervision, and he absconded. As a result of the revocation, he forfeited all of his good time credit. He appealed the revocation, and the Administrator of the Division of Hearings and Appeals affirmed the decision on September 14, 1993.

¶3 In May 2005, Sanders wrote to the Division of Hearings and Appeals requesting that his parole revocation be reconsidered. He argued that his Sixth Amendment right to confront witnesses under ***Crawford v. Washington***, 541 U.S. 36 (2004), had been violated at his revocation hearing. Administrator David Schwarz denied his request because it was "extremely untimely" and because ***Crawford*** did not apply to an administrative revocation proceeding. Sanders then filed a petition for a writ of certiorari to the circuit court. The circuit court affirmed the Administrator's decision saying that Sanders had already received administrative and judicial review of the revocation proceeding. Further, the court found that a rehearing was unnecessary because the underlying decision was both "reasonable and supported by substantial evidence in the record." The circuit

court also concluded that the rule in ***Crawford*** did not apply retroactively. ***Whorton v. Bockting***, __ U.S. __, 127 S. Ct. 1173 (2007).

¶4 We agree that Sanders' challenge to the revocation proceeding was extremely untimely. At the time that Sanders' parole was revoked, a petition for certiorari review of the decision had to be brought within six months. *See* ***State ex rel. Reddin v. Galster***, 215 Wis. 2d 179, 181, 572 N.W.2d 505 (Ct. App. 1997). He brought the petition underlying this appeal more than twelve years after the revocation decision was made. This is simply too late.[1]

¶5 Further, Sanders has already served all of the time he was sentenced to after revocation. This court cannot remedy any alleged harm Sanders claims to have suffered and his claim is moot. *See* ***State ex rel. Ellenburg v. Gagnon***, 76 Wis. 2d 532, 534–35, 251 N.W.2d 773 (1977) (a challenge to a prison disciplinary decision became moot when the inmate was released on parole because the court's decision would have no effect on the inmate).

¶6 We affirm.

By the Court.—Order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5. (2005-06).

[1] The State argues that a challenge to the May 2005 decision would also be untimely. While this appears to be correct, the more important point is that the May 2005 decision will not restart the deadlines because it cannot be separated from the 1993 revocation decision. The May 2005 decision merely reaffirmed the 1993 decision.