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DISTRICT IV

November 9, 2023

To:

Hon. Nia Trammell
Circuit Court Judge
Electronic Notice

Carlo Esqueda
Clerk of Circuit Court
Dane County Courthouse
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Jonathan James Whitney
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Special Litigation & Appeals Unit
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You are hereby notified that the Court has entered the following opinion and order:

2022AP726

State of Wisconsin ex rel. Christopher Seiler v. Kevin Carr
(L.C. # 2022CV572)

Before Blanchard, Graham, and Nashold, 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).

Christopher Seiler, pro se, appeals a circuit court order dismissing his petition for a writ of certiorari. After reviewing the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2021-22).¹ We summarily affirm.

¹ All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

This appeal arises from an inmate complaint filed by Seiler while he was a prisoner at Waupun Correctional Institution (WCI). Seiler alleged in the complaint that the prices of items sold in the canteen at WCI were higher than the prices of similar items sold at Fox Lake Correctional Institution (FLCI). After Seiler's attempts to seek a remedy through the inmate complaint process were unsuccessful, he filed a petition for a writ of certiorari in the circuit court. The circuit court remanded the matter to WCI for further proceedings.

On remand, an institution complaint examiner recommended dismissal of Seiler's inmate complaint, noting that the canteen prices at WCI and FLCI were, at that point, identical. The WCI warden accepted the recommendation and dismissed Seiler's inmate complaint. Seiler then filed an inmate appeal. Seiler's appeal was dismissed by respondent Kevin Carr, Secretary of the Wisconsin Department of Corrections, on December 3, 2021.

On March 3, 2022, Seiler filed a petition for certiorari review in the circuit court, requesting reversal of Carr's decision. On the same day, Seiler also filed a motion to toll the 45-day period for seeking certiorari review under WIS. STAT. § 893.735, arguing that he lacked law library access due to lockdowns related to the COVID-19 pandemic. On March 16, 2022, the circuit court dismissed Seiler's certiorari petition because of his failure to file it within the 45-day period. The circuit court also denied Seiler's tolling motion. Seiler filed a notice of appeal seeking review of the circuit court's dismissal order.

Carr argues in the respondent's brief that Seiler's case is moot. We agree, and we affirm the circuit court on that ground. "[A] case is moot when a determination is sought upon some matter which, when rendered, cannot have any practical legal affect upon a then existing controversy." *Milwaukee Police Ass'n v. City of Milwaukee*, 92 Wis. 2d 175, 183, 285 N.W.2d 133 (1979).

The sole controversy presented in Seiler’s certiorari petition was that, for a period of time in 2019, the prices of canteen items at WCI were higher than the prices for similar items at FLCI. It is undisputed that there is no longer a discrepancy between canteen prices at WCI and FLCI. The administrative record shows that, for the time period during 2019 that Seiler identified in his inmate complaint, a clerical error had caused the items at FLCI to be sold to inmates at wholesale prices, while the same items at WCI were sold at retail prices. The clerical error has since been corrected, and the pricing for canteen items at WCI and FLCI has been made uniform. In addition, Seiler informed this court in November 2022 that he was transferred from WCI to Oshkosh Correctional Institution. Seiler’s case no longer “rest[s] upon existing facts” and, accordingly, is rendered moot. *See Portage Cnty. v. J.W.K.*, 2019 WI 54, ¶11, 386 Wis. 2d 672, 927 N.W.2d 509 (quoted source omitted).

Therefore,

IT IS ORDERED that the order of the circuit court is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Samuel A. Christensen
Clerk of Court of Appeals