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May 14, 2014

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

2013AP1810-CR

State of Wisconsin v. Michael Alan Williams (L.C. #1985CF890)

Before Neubauer, P.J., Reilly and Gundrum, JJ.

Michael Alan Williams appeals pro se from an order denying his motion to obtain various records relating to his 1985 conviction. Based upon our review of the briefs and the record, we conclude that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2011-12).¹ We conclude the circuit court properly denied the motion. We affirm the order.

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

In March 1985, Williams pled guilty to one count of robbery and was sentenced to eighteen months in the Milwaukee House of Corrections. He did not take an appeal. His motion for sentence modification was denied. His sentence long since has been served.

In June and July 2004, Williams wrote to the circuit court clerk seeking, among other documents, the sentencing transcript from his March 1985 robbery conviction. The clerk's office informed Williams that no sentencing transcript was in the file, as one never was prepared and the court reporter's notes since were destroyed. Upon proper payment, it sent him the first page of the criminal complaint, the page of the record showing his sentence and, in response to another letter in February 2009, a copy of his judgment of conviction.

In April 2012, Williams asked the circuit court clerk for the name of the court reporter who transcribed the 1985 plea hearing and sentencing transcripts. The clerk's office again informed him that the transcripts never had been prepared and no longer could be, as court reporter's notes are destroyed after ten years. *See* SCR 72.01(47).

In July 2013, now twenty-eight years postconviction, Williams filed a motion "for sentencing transcripts, plea agreement, presentence investigation [report], and pre-existing records" so as "to prosecute his constitutional right to an effective and meaningful appeal." The circuit court explained that the transcript and presentence report did not exist, as neither had been requested, the reporter's notes had been destroyed, and plea agreements typically were not reduced to writing but, even so, the clerk's office does not maintain copies of them. The court denied the motion. Williams appeals.

Williams argues that he was denied his right to appeal because the circuit court destroyed the reporter's notes without giving him notice.² To preserve a defendant's right to a meaningful review, where a portion of a record is lost "through no fault of the aggrieved party, that party should not be made to bear the burden of this loss." *State v. DeLeon*, 127 Wis. 2d 74, 77, 82, 377 N.W.2d 635 (Ct. App. 1985).

Neither the "meaningful review" nor the "no fault" argument assists Williams. The time for him to seek "meaningful review" was during the direct appeal process, not through a challenge to his conviction two decades on. He waited nearly twenty years to pursue his claim, and court reporters' notes need not be maintained after ten. SCR 72.01(47). The clerk of court or other court records custodian is authorized to destroy records in his or her custody after those ten years expired, with no notice to Williams. *See* SCR 72.02(1).³ Thus, the transcript's unavailability is solely Williams's doing—or lack of doing—not "through no fault of" his.

Beyond that, while still represented, Williams signed a document at the time judgment was entered that explained his appeal rights and cautioned that, to preserve them, "[t]here are time limitations within which you must act." The very first time constraint recited pertained to transcript requests. It stated:

If you wish to pursue any remedy, you must, *within 45 days of today*, the date of entry of judgment, request from the reporter a transcript of the notes of the proceedings in your case. In some cases a total transcript is not necessary, but you must request a

² Williams claims he "repeatedly tried to get the transcripts but received no answer." The clerk's office's prompt responses to his letters debunks that statement.

³ Predestruction notice need be given only to the State historical society. *See* SCR 72.02(1), 72.04.

transcript of such part of the reporter's notes as is necessary to support your motion or your appeal. (Emphasis added.)

Pro se litigants are expected to comply with rules of procedure and substantive law, just as licensed attorneys are. See *Waushara Cnty. v. Graf*, 166 Wis. 2d 442, 452, 480 N.W.2d 16 (1992). Yet Williams made nothing close to a timely effort to obtain a copy of the sentencing transcript, nor did he file a notice of appeal. The reporter had no obligation to prepare a transcript before a notice of appeal was filed. See WIS. STAT. RULE 809.16(1) (1983-84).

One well-established rule of procedure is that this court need not address arguments that are inadequately briefed. *State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992). Williams merely states in conclusory fashion that the lack of a transcript is a due process violation. Under *DeLeon*, however, “common sense demands that the appellant claim [that] some reviewable error occurred during the missing portion” of the proceedings. *DeLeon*, 127 Wis. 2d at 80. He does not do so.

Upon the foregoing reasons,

IT IS ORDERED that the order of the circuit court is summarily affirmed, pursuant to WIS. STAT. RULE 809.21.

Diane M. Fremgen
Clerk of Court of Appeals