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**DISTRICT IV**

May 21, 2014

To:

Hon. David T. Flanagan, III  
Circuit Court Judge  
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You are hereby notified that the Court has entered the following opinion and order:

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2013AP336-CR

State of Wisconsin v. Robin D. Bass (L.C. #2003CF1203)

Before Lundsten, Sherman and Kloppenburg, JJ.

Robin Bass appeals from a judgment imposing a sentence after the revocation of probation and from an order denying his postconviction motion claiming his sentence was based on inaccurate information. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2011-12).<sup>1</sup> We affirm the judgment and order.

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

A claim that a defendant has been denied the right to be sentenced upon accurate information is reviewed de novo on appeal. *State v. Tiepelman*, 2006 WI 66, ¶9, 291 Wis. 2d 179, 717 N.W.2d 1. To establish a violation of the right to be sentenced upon accurate information, the defendant must show both that the information was inaccurate and that the circuit court actually relied on the inaccurate information in the sentencing. *Id.*, ¶26.

The probation revocation summary provided to the sentencing court stated that Bass had an unauthorized relationship with a woman and that the woman had withdrawn her retirement account and loaned Bass \$32,000. Bass claims the revocation summary was inaccurate because it failed to reveal that the woman recanted her prior written statement about the loan being \$32,000, and that the woman testified at the revocation hearing that her original statement was incorrect. Before beginning its sentencing remarks, the court asked the parties to address the report in the revocation summary that Bass had a sexual relationship with the woman, the woman had withdrawn her retirement funds, and she loaned Bass \$32,000. In response Bass pointed out that the woman testified at the revocation hearing that although she had loaned Bass money, it was not near the thousands of dollars originally reported but a much smaller amount.

Assuming without deciding that the information was inaccurate and not corrected by Bass's explanation at sentencing, we conclude that the sentencing court did not rely on the information. Whether the court “actually relied” on the incorrect information at sentencing “turns on whether the [sentencing] court gave ‘explicit attention’ or ‘specific consideration’ to the inaccurate information, so that the inaccurate information ‘formed part of the basis for the sentence.’” *State v. Travis*, 2013 WI 38, ¶28, 347 Wis. 2d 142, 832 N.W.2d 491 (quoted source omitted). Bass claims that because the sentencing court raised the report of a \$32,000 loan, it gave “specific consideration” to that information. However, the court asked the parties to

comment about the loan during the information gathering portion of the sentencing proceeding. During pronouncement of the sentence, the court did not mention that Bass borrowed money from the woman. Nor did the amount of the loan form part of the basis for the sentence. Bass's sentence was not based on inaccurate information.

Upon the foregoing reasons,

IT IS ORDERED that the judgment and order are summarily affirmed pursuant to WIS. STAT. RULE 809.21.

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*Diane M. Fremgen*  
*Clerk of Court of Appeals*