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**DISTRICT IV**

March 22, 2016

To:

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

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2015AP439-CR	State of Wisconsin v. Christopher C. Meyer (L.C. # 2013CF377)
2015AP440-CR	State of Wisconsin v. Christopher C. Meyer (L.C. # 2013CF452)

Before Kloppenburg, P.J., Higginbotham, and Blanchard, JJ.

Christopher Meyer appeals a postconviction order denying his motion for sentence credit. After reviewing the record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2013-14).<sup>1</sup> We affirm for the reasons discussed below.

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<sup>1</sup> All reference to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

As a threshold matter, the State asserts that this court lacks jurisdiction over the appeal because the notice of appeal is dated before the circuit court's written order was entered. As Meyer correctly points out, however:

If the record discloses that the judgment or order appealed from was entered after the notice of appeal or intent to appeal was filed, the notice shall be treated as filed after that entry and on the day of the entry.

Wis. STAT. § 808.04(8). Here, the record includes the circuit court's written order, which we treat as having been entered on the same date as the notice of appeal.<sup>2</sup> Therefore, the State's contention that we lack jurisdiction is entirely without merit.

As to sentence credit, Meyer was charged with a fifth OWI offense and released on bail. While out on bail, Meyer engaged in a domestic violence incident that led to additional charges of false imprisonment and bail jumping. Meyer did not post bond on the second case, and therefore remained in custody until a joint sentencing hearing was held on both cases. However, as we discuss below, his bail was not revoked in the OWI case. At the sentencing hearing, the circuit court imposed concurrent sentences in the two cases, and granted Meyer 137 days of sentence credit on the false imprisonment and bail jumping case, but only 31 days of credit on the OWI case.

When sentences on charges stemming from unrelated conduct are imposed concurrently, the defendant is entitled to credit for any time spent in pretrial custody in relation to each charge. *State v. Johnson*, 2009 WI 57, ¶¶60-62, 318 Wis. 2d 21, 767 N.W.2d 207. However, credit is

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<sup>2</sup> This court routinely reviews every record filed to determine whether we have jurisdiction by means of a timely notice of appeal from a final judgment or order. In this case, there is a docket entry from June 3, 2015 that states, "Court has Jurisdiction" and "Comment: Section 808.04(8) applied."

not due on a case for which the defendant is considered free on bail while the defendant remains in custody for other charges, as when bail is not revoked after the defendant makes bail. *See State v. Floyd*, 2000 WI 14, ¶¶15-17, 232 Wis. 2d 767, 606 N.W.2d 155.

The State contends that the *Floyd* rule applies here because no action was taken to revoke Meyer's bail on the OWI case after he was arrested on the new charges. Meyer asserts that his bail on the OWI case was automatically revoked because the bail jumping charge arose from the OWI case. Meyer's assertion, however, is contrary to case law holding that a charge of bail jumping does *not* result in the automatic forfeiture of bail. *State v. Beiersdorf*, 208 Wis. 2d 492, 494-96, 561 N.W.2d 749 (Ct. App. 1997). As the State correctly points out, either revocation or forfeiture of bail requires a judicial proceeding with notice. *See* WIS. STAT. §§ 969.08 and 969.13.

Because Meyer was not in custody on the OWI charge while being held on the false imprisonment and bail jumping charges, the circuit court properly denied him credit for that period of time on the OWI case.

IT IS ORDERED that the order denying Meyer's motion for additional sentence credit is summarily affirmed under WIS. STAT. RULE 809.21(1).

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