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DISTRICT II

March 29, 2017

To:

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

2016AP1396-CR

State of Wisconsin v. Earl L. Miller (L.C. #1997CF221)

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

Earl Miller, pro se, appeals the denial of his petition for sentence reduction under WIS. STAT. § 973.195(1r)(b)3. (2015-16).¹ 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. Miller was sentenced in 1997 to an indeterminate sentence. As § 973.195 applies to sentences imposed after December 31, 1999, under Wisconsin's Truth-in-Sentencing law, we

¹ All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

affirm the circuit court's denial of Miller's petition.

Miller was convicted by a jury in 1997 of carjacking, causing death of another person, in violation of WIS. STAT. § 943.23(1r) (1995-96). At sentencing, the court imposed an indeterminate life sentence with parole eligibility as of January 1, 2030. Section 943.23(1r) was repealed in 2001. *See* 2001 Wis. Act 109, § 745. Miller argues that he is eligible for "sentence adjustment" under WIS. STAT. § 973.195(1r)(b)3. as had he committed the same acts today, his sentence would have resulted in a shorter term of confinement. *See id.*

Miller's argument is a nonstarter as WIS. STAT. § 973.195(1r)(b)3. is applicable only to sentences imposed under Wisconsin's Truth-in-Sentencing law. Miller was not sentenced under Wisconsin's Truth-in-Sentencing law; therefore, he is statutorily ineligible for sentence adjustment under § 973.195. *See* § 973.195(1r)(a); *State v. Stenklyft*, 2005 WI 71, ¶24 & n.8, 281 Wis. 2d 484, 697 N.W.2d 769; *State v. Tucker*, 2005 WI 46, ¶18, 279 Wis. 2d 697, 694 N.W.2d 926; *State v. Anderson*, 2015 WI App 92, ¶¶13-14, 366 Wis. 2d 147, 873 N.W.2d 82.

We summarily affirm the denial of his petition.

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