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**DISTRICT II**

November 1, 2017

*To:*

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

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2016AP2280

State of Wisconsin ex rel. Nicholas Delgado v. Brian Hayes  
(L.C. # 2015CV1688)

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

**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).**

Nicholas Delgado appeals pro se from a circuit court order that affirmed, on certiorari review, an administrative decision to revoke his extended supervision. 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 (2015-16).<sup>1</sup> We affirm the order of the circuit court and adopt it as our decision. *See* WIS. CT. APP. IOP VI(5)(a) (Nov. 30, 2009) (court of appeals may adopt circuit court opinion).

In 2009, Delgado was convicted of armed robbery with threat of force. The circuit court imposed a sentence of three years of initial confinement followed by seven years of extended supervision.

In 2015, the department of corrections sought revocation of Delgado's extended supervision based upon allegations that he (1) consumed THC, (2) possessed live ammunition, (3) possessed multiple weapons, and (4) operated a vehicle while under the influence as a third offense. Following a hearing on the matter, the administrative law judge (ALJ) found that the allegations were substantiated. Accordingly, the ALJ revoked Delgado's extended supervision and ordered him reconfined for four years, one month, and six days.<sup>2</sup>

Delgado appealed to the Division of Hearings and Appeals Administrator Brian Hayes, who sustained the ALJ's decision. Delgado then sought certiorari review from the circuit court, which affirmed the decision. This appeal follows.

Review of a revocation decision is obtained by a writ of certiorari to the circuit court. *See State ex rel. Washington v. Schwarz*, 2000 WI App 235, ¶16, 239 Wis. 2d 443, 620 N.W.2d 414. In an appeal from the circuit court's order affirming or reversing the decision of an

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2015-16 version.

<sup>2</sup> This was Delgado's second revocation. He was previously revoked in 2012 for operating a vehicle while under the influence as a second offense.

administrative agency, we review the agency's decision, not the circuit court's. *Mineral Point Unified Sch. Dist. v. WERC*, 2002 WI App 48, ¶12, 251 Wis. 2d 325, 641 N.W.2d 701.

Judicial review on certiorari is limited to considering (1) whether the agency stayed within its jurisdiction; (2) whether it acted according to law; (3) whether its action was arbitrary, oppressive, or unreasonable, representing its will, not its judgment; and (4) whether the evidence was such that it might reasonably make the order or determination in question. *Thornson v. Schwartz*, 2004 WI 96, ¶12, 274 Wis. 2d 1, 681 N.W.2d 914 (citing *Van Ermen v. DHSS*, 84 Wis. 2d 57, 63, 267 N.W.2d 17 (1978)).

Here, Delgado focuses upon the length of his reconfinement time, claiming that the agency's action in imposing it was unreasonable.<sup>3</sup> Delgado's contention was carefully and thoroughly addressed by the circuit court. Accordingly, we hereby adopt and incorporate as our decision the circuit court order entered October 10, 2016.

Upon the foregoing reasons,

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

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

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

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<sup>3</sup> Delgado also argues that the agency should have given him an alternative to revocation. Because Delgado did not raise this argument in the circuit court, we will not consider it for the first time on appeal. See *State v. Huebner*, 2000 WI 59, ¶10, 235 Wis. 2d 486, 611 N.W.2d 727.