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**DISTRICT II**

December 13, 2017

To:

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

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2016AP2326

State of Wisconsin v. Paul A. Adams (L.C. # 2013CF1535)

Before Neubauer, C.J., Gundrum and Hagedorn, JJ.

**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).**

Paul A. Adams appeals pro se from an order denying his postconviction motions for relief. 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 conclude

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

that the circuit court properly denied Adams' motions due to a lack of competency. Accordingly, we affirm its order.

Adams was convicted following a no contest plea to operating a motor vehicle while intoxicated (OWI) as a seventh offense. He filed a postconviction motion to withdraw his plea, which was denied. He then filed a notice of appeal under WIS. STAT. RULE 809.30.

While Adams' WIS. STAT. RULE 809.30 appeal was pending, he filed multiple postconviction motions for relief in the same underlying case. In them, he sought (1) appointment of counsel; (2) collateral attack of two prior OWI convictions; and (3) dismissal of charges with prejudice. The circuit court denied the motions after concluding that it lacked competency to consider them during the pendency of the RULE 809.30 appeal. This appeal follows.

On appeal, Adams contends that the circuit court erred in denying his postconviction motions for relief. He maintains that the court had competency to consider them and asks for an evidentiary hearing.

“The circuit court’s determination of competency refers to its ‘ability to exercise the subject matter jurisdiction vested in it’ by Article VII, Section 8 of the Wisconsin Constitution.” *Village of Elm Grove v. Brefka*, 2013 WI 54, ¶16, 348 Wis. 2d 282, 832 N.W.2d 121 (quoting *Village of Trempealeau v. Mikrut*, 2004 WI 79, ¶9, 273 Wis. 2d 76, 681 N.W.2d 190). The court may lack competency to consider a matter if certain statutory requirements are not met. See *Brefka*, 348 Wis. 2d 282, ¶16. Whether a court has competency to proceed presents a question of law that we review independently. *Id.*, ¶13.

Here, we agree with the circuit court that it lacked competency to consider Adams' postconviction motions for relief during the pendency of his WIS. STAT. RULE 809.30 appeal. While an appeal is pending under RULE 809.30, the circuit court may act only as provided by WIS. STAT. § 808.075(1) and (4). Section 808.075(2). Adams' postconviction motions do not fall under either of those subsections. *See also State v. Redmond*, 203 Wis.2d 13, 22, 552 N.W.2d 115 (Ct. App. 1996) (Section 808.075 does not allow for the hearing of further postconviction motions in the circuit court once a notice of appeal has been filed). As a result, we are satisfied that the court properly denied them.

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*