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February 19, 2018

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

2017AP1011 State of Wisconsin ex rel. Rayshon M. Ferguson v. Michael
Meisner (L.C. # 2017CV28)

Before Lundsten, P.J., Blanchard and Fitzpatrick, 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).

Rayshon Ferguson appeals a circuit court order that quashed and dismissed his petition for a writ of habeas corpus. After reviewing the record, we conclude at conference that this case

is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2015-16).¹ We affirm for the reasons discussed below.

A person whose liberty is being restrained in the absence of a valid judgment or order may apply to a court for a writ of habeas corpus to examine an alleged constitutional or jurisdictional error. *See* U.S. CONST. art. I, § 9, cl. 2; WIS. CONST. art. I, § 8, cl. 4; WIS. STAT. §§ 782.01(1) and (3) and 782.02; *State ex rel. Marberry v. Macht*, 2003 WI 79, ¶23, 262 Wis. 2d 720, 665 N.W.2d 155. Habeas corpus is an extraordinary remedy, however, that is not available when there exists an adequate alternate mechanism for seeking relief, such as a direct appeal or a postconviction motion. *See* WIS. STAT. §§ 782.02 and 974.06(8); *State ex rel. Fuentes v. Wisconsin Court of Appeals*, 225 Wis. 2d 446, 451, 593 N.W.2d 48 (1999).

Here, Ferguson is being detained pursuant to an order by an administrative law judge, which was affirmed by the Division of Hearings and Appeals, revoking his extended supervision on a drug charge and reconfining him for a period of one year and six months. Ferguson contends that DHA lacked the authority to issue the revocation order because Ferguson was held in custody for more than fifty days awaiting his revocation hearing, in violation of WIS. STAT. § 302.335.

Aside from the fact that Ferguson's argument appears to be squarely defeated on its merits by *State ex rel. Jones v. DHA*, 195 Wis. 2d 669, 673, 536 N.W.2d 213 (Ct. App. 1995) (holding that the statute regulating the amount of time an offender can be held in pre-hearing

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

detention does not affect the authority of DHA to hold a revocation hearing), habeas corpus relief is barred here on procedural grounds.

The proper mechanism for seeking relief from an administrative revocation order is by means of certiorari. *State ex rel. Haas v. McReynolds*, 2002 WI 43, ¶14, 252 Wis. 2d 133, 643 N.W.2d 771. Because Ferguson had an adequate alternate mechanism for seeking relief, habeas corpus is not available. See *State ex rel. Purifoy v. Malone*, 2002 WI App 151, ¶¶6-8, 256 Wis. 2d 98, 648 N.W.2d 1 (in analogous context of parole revocation).

IT IS ORDERED that the order dismissing Rayshon Ferguson's petition for a writ of habeas corpus is summarily affirmed under WIS. STAT. RULE 809.21(1).

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

Sheila T. Reiff
Clerk of Court of Appeals