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DISTRICT I

May 17, 2018

To:

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

2017AP1691

State of Wisconsin v. Reginald A. Wilson (L.C. # 2010CF5470)

Before Brennan, P.J., Brash and Dugan, 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).

Reginald A. Wilson, *pro se*, appeals from an order of the circuit court that denied his motion for an order compelling the Department of Corrections to comply with the judgment of conviction and stop withholding funds during his initial confinement. 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). The order is summarily affirmed.

In 2011, Wilson was convicted of first-degree reckless injury with use of a dangerous weapon and possession of a firearm by a felon.¹ He was ordered to “pay the costs, fees, and assessments of this case ... by the end of the period of supervision.” In July 2016, a new Department policy, DAI Policy 309.45.02, took effect.² According to Wilson, under this policy, the Department withholds up to fifty percent of an inmate’s funds to satisfy court-ordered obligations. The Department began withholding funds from Wilson in accordance with the new rule.

Because Wilson’s judgment of conviction states that costs are “[t]o be paid during [e]xtended supervision” or be docketed as a civil judgment, Wilson believed that the Department was disregarding the sentencing court’s directive and improperly withholding funds under the new DAI policy during his period of confinement. Wilson thus filed a postconviction motion with the circuit court, asking it to order the Department to comply with the judgment. The circuit court denied the motion.³ It explained that “[t]he court does not have jurisdiction over the Department in this matter” and stated that Wilson’s remedy, if any, was through his institution’s business office or a civil action. Wilson appeals.

As an initial matter, we note that the text of the judgment of conviction, stating that costs were to be paid during extended supervision, actually conflicts with what the sentencing court ordered: the court required only that costs be paid by the end of the term of supervision, not that

¹ Wilson was sentenced by the Honorable Rebecca F. Dallet.

² DAI stands for Division of Adult Institutions, a subdivision of the Department of Corrections.

³ The motion was denied by the Honorable T. Christopher Dee.

payment of those costs should begin only once Wilson is released to supervision. We therefore question whether the Department is actually in need of the correction Wilson seeks.

In any event, by filing a postconviction motion in his criminal case, Wilson was seeking relief from the sentencing court. However, a circuit court, sitting in the role of a sentencing court, “lacks the competency^[4] to address an allegedly improper disbursement of funds by the [Department].” *State v. Williams*, 2018 WI App 20, ¶4, 909 N.W.2d 177. Therefore, Wilson’s recourse, if he believes funds are being withheld in error, is through the inmate complaint review system and, if necessary, through the circuit court by way of a writ of *certiorari*. See *id.*, ¶1. But because the circuit court lacked competency to consider Wilson’s claim of error against the Department in the context of a postconviction motion, the court properly denied the motion.⁵

Upon the foregoing,

IT IS ORDERED that the order appealed from is summarily affirmed.

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

Sheila T. Reiff
Clerk of Court of Appeals

⁴ The circuit court in this case determined it lacked jurisdiction over Wilson’s request, but the circuit court in fact lacks competency, not jurisdiction. See *State v. Minniecheske*, 223 Wis. 2d 493, 497-500, 590 N.W.2d 17 (Ct. App. 1998). The result, however, is the same.

⁵ Wilson also asserted that the new DAI policy constitutes an *ex post facto* violation, making the punishment for his offenses more burdensome after they were committed. See, e.g., *State v. Thiel*, 188 Wis. 2d 695, 703, 524 N.W.2d 641 (1994). As the State points out, this argument is undeveloped in the main brief, and we note that Wilson did not file a reply brief. We do not consider undeveloped arguments. See *State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992); *State v. Shaffer*, 96 Wis. 2d 531, 545-46, 292 N.W.2d 370 (Ct. App. 1980).