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DISTRICT II

May 23, 2018

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

2017AP695-CR

State of Wisconsin v. Rayshun D. Woods (L.C. #2006CF114)

Before Reilly, P.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).

Rayshun D. Woods appeals from an order denying his motion for an order compelling the Department of Corrections (DOC) to comply with the judgment of conviction and withhold twenty-five percent from his inmate trust account instead of fifty percent for payment of restitution. 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).¹ As we conclude that the circuit court lacked competency to entertain Woods’ motion, we summarily affirm.

In 2006, Woods pled guilty to armed robbery, under WIS. STAT. § 943.32(2), and burglary, under WIS. STAT. § 943.10(2)(a), both as a repeater. The court sentenced Woods to a total term of fifteen years’ initial confinement and five years’ extended supervision. Woods was also ordered to pay over \$26,000 in restitution, and the judgment of conviction noted that the DOC “shall deduct restitution and all other court obligations at the rate of 25% of all monies received while incarcerated.” According to Woods, in 2016, the DOC began withholding fifty percent of his prison trust account for restitution payments “without the circuit court’s permission.” The DOC had updated its policy in accordance with 2015 Wis. Act 355, which amended WIS. STAT. §§ 301.32(1) and 973.20(11)(c) to authorize the DOC to take restitution from an inmate’s trust account at “an amount or a percentage the [DOC] determines is reasonable for payment to victims.” Sec. 973.20(11)(c). In 2017, Woods filed a motion seeking an order to compel the DOC to only deduct twenty-five percent of his prison trust account as authorized in the judgment of conviction. The circuit court denied the motion without a hearing.

We recently issued a decision in *State v. Williams*, 2018 WI App 20, 380 Wis. 2d 440, 909 N.W.2d 177, that definitively resolves this issue. Relying on the court’s reasoning in *State v. Minniecheske*, 223 Wis. 2d 493, 495, 590 N.W.2d 17 (Ct. App. 1998), we concluded that the circuit court “lacks the competency to address an allegedly improper disbursement of funds by

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

the DOC. Once an inmate is sentenced to prison, he or she is under the control of the executive branch and must address his or her objections to the internal operating procedures of the DOC.” *Williams*, 380 Wis. 2d 440, ¶4. Said another way, the legislature has given the DOC the sole authority to supervise inmates in its custody, and thus the circuit court is not permitted to infringe on that authority by imposing conditions during an inmate’s initial confinement, including disbursements for restitution. WIS. STAT. §§ 301.03, 301.31, 301.32(1), 303.01(8); *State v. Gibbons*, 71 Wis. 2d 94, 98-99, 237 N.W.2d 33 (1976). We further outlined the procedure under the inmate complaint review system pursuant to WIS. ADMIN. CODE ch. DOC 310 (Mar. 2018) to file a grievance based on an alleged improper disbursement of funds from an inmate’s trust account. *Williams*, 380 Wis. 2d 440, ¶5. Only after an inmate has exhausted all of his or her administrative remedies may he or she then petition the circuit court for a writ of certiorari challenging the alleged improper disbursement. Sec. DOC 310.05; *see also* WIS. STAT. § 801.02(7)(b). As Woods failed to comply with the procedures outlined under ch. DOC 310, the circuit court properly denied his motion as it lacked competency to determine the propriety of DOC’s disbursement of funds for restitution.

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.

Sheila T. Reiff
Clerk of Court of Appeals