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DISTRICT I

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

2017AP1159-CR

State of Wisconsin v. Sherald D. Falls (L.C. # 1996CF960494)

Before Brennan, 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).

Sherald D. Falls, *pro se*, appeals from a circuit court order denying his motion to limit the percentage of funds that can be deducted from his prison wages to pay court-ordered financial obligations. Falls also appeals from an order denying his motion for reconsideration. We

conclude at conference that this matter is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21(1) (2015-16).¹ We summarily affirm the orders.

In 1996, Falls was convicted of operating a motor vehicle without the owner's consent, contrary to WIS. STAT. § 943.23(3) (1995-96). He was ordered to pay restitution of \$1862 plus court costs and a victim/witness surcharge. On April 6, 2017, Falls, who is incarcerated, filed a *pro se* motion asking the circuit court to issue an order preventing the Department of Corrections (DOC) from taking more than twenty-five percent of his prison wages to satisfy his outstanding court-ordered obligations. The circuit court denied the motion in a written order, explaining that the DOC's actions were not properly before the circuit court. The circuit court denied Falls's motion for reconsideration on the same grounds. This appeal follows.

On appeal, Falls argues that the DOC acted improperly—thereby violating the terms of his judgment of conviction—by collecting funds from Falls at an excessive rate. In response, the State asserts that Falls cannot challenge the DOC's actions as part of Falls's criminal case because “[a] challenge to the percentage of funds DOC collects as restitution is ‘distinct from the proceedings that resulted in the conviction and sentence.’” *See State ex rel. Stinson v. Morgan*, 226 Wis. 2d 100, 103, 593 N.W.2d 924 (Ct. App. 1999). The State argues that “Falls has pursued the wrong procedural process” and must instead “exhaust all administrative remedies” and then, if necessary, seek certiorari review in the circuit court.²

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

² Falls has not filed a reply brief and, therefore, he has not contested the State's arguments. This provides another basis to affirm the orders. *See Schlieper v. DNR*, 188 Wis. 2d 318, 322, 525 N.W.2d 99 (Ct. App. 1994) (Unrefuted arguments are deemed conceded.).

We agree with the State's analysis. We also note that after briefing was completed in this case, we released *State v. Williams*, 2018 WI App 20, 380 Wis. 2d 440, 909 N.W.2d 177, which addressed a challenge to the DOC's collection of court-ordered restitution obligations from a prisoner. We held:

[T]he circuit court, acting as the sentencing court, lacks the competency to address an allegedly improper disbursement of funds by 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 through the [inmate complaint review system], WIS. ADMIN. CODE ch. DOC 310, and then, if necessary, by writ of certiorari to the circuit court.

Williams, 380 Wis. 2d 440, ¶4. The same reasoning applies here. If Falls wishes to challenge the DOC's collection of his court-ordered financial obligations, he must pursue administrative remedies and, if necessary, seek certiorari review of the administrative decision. *See id.* Accordingly, we summarily affirm the circuit court's orders.

IT IS ORDERED that the orders are summarily affirmed. *See* 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