



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688
Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT IV

April 8, 2019

To:

Hon. Everett Mitchell
Circuit Court Judge
215 S. Hamilton St.
Madison, WI 53703

Andres A. Del Real 275073
Wisconsin Secure Program Facility
P.O. Box 1000
Boscobel, WI 53805-1000

Carlo Esqueda
Clerk of Circuit Court
215 S. Hamilton St., Rm. 1000
Madison, WI 53703

Special Litigation & Appeals Unit
Department of Justice
P.O. Box 7857
Madison, WI 53707-7857

Karla Z. Keckhaver
Assistant Attorney General
P.O. Box 7857
Madison, WI 53707-7857

Wisconsin Secure Program Facility
Business Office
P.O. Box 1000
Boscobel, WI 53805-0900

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

2018AP566

State of Wisconsin ex rel. Andres A. Del Real v. Greg Grams
(L.C. # 2008CV5817)

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).

Andres Del Real, pro se, appeals the circuit court's order denying his motion for reconsideration of the court's 2009 decision dismissing his certiorari action. 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(1) (2017-18).¹ We affirm.

In his certiorari action, Del Real challenged restitution imposed by the Department of Corrections after Del Real was found to have distributed pornography in a correctional institution. As noted, the court dismissed the action in 2009. Del Real brought his reconsideration motion more than eight years later, in February 2018. The circuit court denied the motion as untimely under WIS. STAT. § 805.17(3) because the motion was filed more than twenty days after the court's 2009 order.

On appeal, it is undisputed that the circuit court denied Del Real's motion based on an inapplicable statute that applies to bench trials. However, a circuit court's reliance on an inapplicable statute does not mean we must reverse. "[I]f a circuit court reaches the right result for the wrong reason, we will nevertheless affirm." *Milton v. Washburn Cty.*, 2011 WI App 48, ¶8 n.5, 332 Wis. 2d 319, 797 N.W.2d 924; *see also Linda L. v. Collis*, 2006 WI App 105, ¶63, 294 Wis. 2d 637, 718 N.W.2d 205 (court of appeals may affirm the circuit court on alternative grounds).

Here, we conclude that the circuit court reached the right result, and we affirm, because Del Real has not pointed to any authority under which his 2018 motion might be considered timely. Rather, Del Real's arguments are directed at the merits of the circuit court's 2009 decision and the underlying restitution order. We note that Del Real's reconsideration motion cannot be considered timely under the relief from judgments statute, WIS. STAT. § 806.07,

¹ All references to the Wisconsin Statutes are to the 2017-18 version unless otherwise noted.

because Del Real has not demonstrated that his motion was “made within a reasonable time.” See § 806.07(2); *State ex rel. Cynthia M.S. v. Michael F.C.*, 181 Wis. 2d 618, 627-28, 511 N.W.2d 868 (1994) (whether an § 806.07 motion was made within a reasonable time is a case-by-case analysis based on a variety of factors).

Therefore,

IT IS ORDERED that the circuit court’s order is summarily affirmed pursuant to 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