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**DISTRICT IV**

June 24, 2019

*To:*

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

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2018AP1300

State ex rel. Sean J. White v. Jon E. Litscher (L.C. # 2018CV729)

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).**

Sean White and Joseph White appeal an order dismissing their petition for a writ of mandamus and an order denying reconsideration. 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 (2017-18).<sup>1</sup> We affirm.

The Whites' petition alleged that the Department of Corrections made changes to the way that persons outside the prison system provide money to prisoners; that the new system required that the money be sent through a private contractor that charged fees; and that this new method was contrary to statute and administrative rule. The circuit court dismissed the petition for several reasons.

One requirement to obtain relief by mandamus is that the petitioner show substantial damages. *Voces De La Frontera, Inc. v. Clarke*, 2017 WI 16, ¶11, 373 Wis. 2d 348, 891 N.W.2d 803. The respondent argues, and we agree, that the Whites did not allege substantial damages. The petition did not allege damage to them other than the requirement that an unspecified fee be paid and, perhaps by inference, some form of additional inconvenience. While those are forms of damage, the petition does not show that the damage is substantial.

The Whites also argue that, if relief by mandamus was not appropriate, the circuit court should have construed their petition as an action for a declaratory judgment and allowed it to proceed. Although the Whites cite case law stating that the court would be allowed to reconstrue the petition in that manner, those cases do not state that it is reversible error if the court does not reconstrue the petition on its own.

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

IT IS ORDERED that the orders appealed are summarily affirmed under WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

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*Sheila T. Reiff*  
*Clerk of Court of Appeals*