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**DISTRICT III**

April 21, 2020

To:

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

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2019AP85

State of Wisconsin v. Jonathon D. Petroski  
(L. C. No. 2014CF390)

Before Stark, P.J., Hruz and Seidl, 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).**

Johnathon Petroski, pro se, appeals an order denying a WIS. STAT. § 974.06 (2017-18)<sup>1</sup> motion to vacate his conviction. Petroski challenges the validity of the statutes under which he was convicted. Based upon our review of the briefs and records, we conclude at conference that

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

this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. We reject Petroski's arguments and summarily affirm the circuit court's order.

The State charged Petroski with battery by a prisoner and attempted substantial battery, both counts as a repeater, based on allegations that Petroski assaulted a corrections officer while incarcerated for another offense. In exchange for his no-contest plea to battery by a prisoner, as a repeater, contrary to WIS. STAT. §§ 940.20(1) and 939.62(1)(b), the State agreed to recommend that the circuit court dismiss and read in the remaining count. The parties remained free to argue at sentencing. Out of a maximum possible ten-year sentence, the court ultimately imposed two years' initial confinement and three years' extended supervision, to run consecutive to the sentence Petroski was already serving. Petroski subsequently filed a WIS. STAT. § 974.06 motion to vacate his conviction, claiming that the statutes under which he was convicted do not contain an enacting clause as required by article IV, section 17 of the Wisconsin Constitution, thus depriving the court of subject matter jurisdiction over his case. The court denied the motion, and Petroski appeals.

The issue posed by Petroski has already been answered in *State v. Weidman*, 2007 WI App 258, 306 Wis. 2d 723, 743 N.W.2d 854. There, this court rejected a defendant's assertion that each statute must contain an enacting clause. *Id.*, ¶5. The *Weidman* court recognized that WIS. CONST. art. IV, section 17(1) provides that "[t]he style of all laws of the state shall be 'The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:.'" *Id.* Like the defendant in *Weidman*, however, Petroski fails to distinguish between the "Laws of Wisconsin" and statutes. As the *Weidman* court explained, "The Laws of Wisconsin are governed by WIS. STAT. § 35.15, whereas the Wisconsin Statutes are governed by WIS. STAT. § 35.18." *Weidman*, 306 Wis. 2d 723, ¶5. The Laws of Wisconsin are duly enacted acts

approved by the legislature that include the required constitutional language. *See* WIS. STAT. § 35.15(b) and (c). “When an act, or part of an act, creates a statute section number, that action indicates a legislative intent to make the section a part of the Wisconsin Statutes.” *Weidman*, 306 Wis. 2d 723, ¶5. Therefore, while article IV, section 17 applies to the “laws of the state,” it does not apply to the Wisconsin statutes, which are a codification of those laws. *Id.* Because Petroski fails to establish that the statutes themselves must include enacting-clause language, we affirm.

Upon the foregoing,

IT IS ORDERED that the order is summarily affirmed. 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*