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**DISTRICT I**

October 5, 2021

To:

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Kenneth E. Hopkins 107619  
Region Unit Office: Unit 324  
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Milwaukee, WI 53207

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

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2019AP731-CR                      State of Wisconsin v. Kenneth E. Hopkins (L.C. # 2000CF1981)

Before Brash, C.J., Dugan and White, 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).**

Kenneth E. Hopkins, *pro se*, appeals an order denying his motion for sentence credit. He argues that he is entitled to seventy-one days of credit toward his sentence imposed after revocation of his extended supervision. After reviewing the briefs and record, we conclude that summary disposition is appropriate. *See* WIS. STAT. RULE 809.21 (2019-20).<sup>1</sup> We affirm.

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

On July 17, 2000, Hopkins was convicted of unlawfully possessing a firearm as a convicted felon, with an enhancement for habitual criminality. The circuit court sentenced Hopkins to five years of initial confinement and three years of extended supervision, to be served consecutively to any other sentence Hopkins was serving. In 2011, Hopkins was released on extended supervision. In 2015, Hopkins's extended supervision was revoked.

On October 21, 2015, Hopkins moved for sentence credit to be applied to his reconfinement sentence. On October 28, 2015, the circuit court denied the motion. On December 12, 2016, this court reversed based on the State's motion for summary reversal and directed the circuit court to award Hopkins seventy-four days of sentence credit. On December 16, 2016, the circuit court amended Hopkins's judgment of conviction to award him seventy-four days of sentence credit.

At the time Hopkins was awarded the sentence credit, he only had three days of confinement left to serve. The Department of Corrections immediately released him and applied the remaining seventy-one days of sentence credit to reduce Hopkins's maximum discharge date—that is, the date on which he would complete extended supervision. The Department retroactively changed his release date to October 18, 2016, which had the effect of moving the date he would complete his extended supervision to seventy-one days earlier.

In August 15, 2018, Hopkins was again revoked from extended supervision. On March 26, 2019, Hopkins moved the circuit court to apply seventy-one days of sentence credit to his reconfinement sentence. The circuit court denied his motion.

We first note that the circuit court improperly denied Hopkins's motion on the grounds that it did not have jurisdiction to consider the issue raised. Wisconsin circuit courts "have

subject matter jurisdiction to consider and determine any type of action.” See *Amy Z. v. Jon T.*, 2004 WI App 73, ¶7, 272 Wis. 2d 662, 679 N.W.2d 903. Nevertheless, we affirm the circuit court’s decision because it reached the correct result, albeit for the wrong reason. See *State v. Holt*, 128 Wis. 2d 110, 124, 382 N.W.2d 679 (Ct. App. 1985).

Hopkins contends that the seventy-one days of sentence credit that were used to reduce his maximum discharge date in 2016 should instead be applied to reduce his reconfinement sentence imposed in 2018. He relies on *State v. Obriecht*, 2015 WI 66, ¶1, 363 Wis. 2d 816, 867 N.W.2d 387. Obriecht applied for sentence credit after he was revoked from parole. See *id.* The circuit court agreed that Obriecht was due sentence credit, which should have been, but was not, applied when Obriecht was sentenced. *Id.*, ¶2. However, the circuit court refused to apply the credit to Obriecht’s incarceration imposed after revocation, instead applying the credit to reduce the time Obriecht would spend on parole after his revocation sentence was served. *Id.*, ¶1. The Wisconsin Supreme Court reversed, holding that when a convicted defendant’s parole is revoked and the defendant applies for sentence credit, “the parolee’s ... sentence ... resumes running so that it is available to accept sentence credit.” *Id.*, ¶3.

The facts of this case are distinguishable from *Obriecht*. At the time Hopkins was awarded the sentence credit, he had only three days of incarceration time “available to accept sentence credit.” See *id.* The Department, therefore, appropriately applied the credit to those three days of incarceration time in accord with *Obriecht* and released Hopkins. The Department then applied the remaining credit to reduce Hopkins’s time left on extended supervision, thereby reducing Hopkins’s maximum discharge date on his 2000 conviction by seventy-one days. Nothing in *Obriecht* requires the Department to retroactively revise its decision made years

earlier allocating sentence credit because a convicted defendant is subsequently revoked from parole or extended supervision. Hopkins's reading of *Obriecht* is simply too broad.

Upon the foregoing,

IT IS ORDERED that the order of the circuit court is summarily affirmed. *See* 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*