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**DISTRICT I**

November 23, 2021

To:

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Circuit Court Judge  
Electronic Notice

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Clerk of Circuit Court  
Milwaukee County Courthouse  
Electronic Notice

John D. Flynn  
Electronic Notice

Eric Michael Muellenbach  
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Marquis D. Williams 341515  
Racine Correctional Inst.  
P.O. Box 900  
Sturtevant, WI 53177-0900

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

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2020AP1464-CR                      State of Wisconsin v. Marquis D. Williams (L.C. # 2016CF5305)

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).**

Marquis D. Williams, *pro se*, appeals from orders of the circuit court that denied his motion for sentence credit and subsequent motion for 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 (2019-20).<sup>1</sup> The orders are summarily affirmed.

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

Williams pled guilty to one count of arson and one count of misdemeanor disorderly conduct with the habitual offender penalty enhancer. In August 2017, he was sentenced to ten years of imprisonment for the arson count consecutive to revocation sentences, with a concurrent two-year sentence for the disorderly conduct count. No sentence credit was awarded because the controlling arson sentence in this case was made consecutive to his revocation sentences.

In September 2017, Williams moved for concurrent sentences, also claiming entitlement to 236 days of sentence credit. The circuit court denied the request, explaining why the sentences were made consecutive. The order did not expressly mention sentence credit.

In March 2018, Williams moved for 168 days of sentence credit, relying on *Drinkwater v. State*, 69 Wis. 2d 60, 74, 230 N.W.2d 126 (1975) (“A sentence imposed upon the revocation of probation cannot be made consecutive to a sentence previously imposed.”). The circuit court denied the motion, explaining that *Drinkwater* had since been superseded by amendment to the statute, and Williams was not entitled to dual credit. See *State v. Cole*, 2000 WI App 52, ¶7-8, 233 Wis. 2d 577, 608 N.W.2d 432; see also *State v. Boettcher*, 144 Wis. 2d 86, 87, 423 N.W.2d 533 (1988) (“Credit is to be given on a day-for-day basis, which is not to be duplicatively credited to more than one of the sentences imposed to run consecutively.”). In April 2018, Williams requested sentence modification, noting in part that his sentences in this case run concurrent to each other. The circuit court denied the motion, reiterating that *Boettcher* does not permit dual credit.

In July 2018, Williams moved for 170 days of sentence credit. The circuit court denied the motion. It explained that Williams had been given the appropriate credit, which was applied

against his revocation sentences. Thus, he was not entitled to have the same credit applied against the sentence in this case.

In June 2020, Williams moved for 168 days of sentence credit.<sup>2</sup> The circuit court denied the motion, explaining again that he received the credit in his revocation cases and that *Boettcher* forecloses dual credit here. Williams moved for reconsideration. The circuit court denied the motion, explaining how the Department of Corrections' sentence computation worksheet reflects that the credit was actually applied against his revocation sentences. Williams appeals.

On appeal, Williams argues that he did not receive the appropriate sentence credit in this case. As the State points out, however, “[a] matter once litigated may not be relitigated in a subsequent postconviction proceeding no matter how artfully the defendant may rephrase the issue.”<sup>3</sup> See *State v. Witkowski*, 163 Wis. 2d 985, 990, 473 N.W.2d 512 (Ct. App. 1991). Williams has litigated the issue of sentence credit multiple times in this case. He has had it explained to him multiple times why he is not entitled to credit on this consecutive case and that the credit has, in fact, been applied to his overall sentence structure. The circuit court's analysis in the reconsideration order accurately explains how the Department of Corrections applied all of Williams' credit in its sentence computation. We decline to review the issue any further.

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

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<sup>2</sup> This historical recitation does not include four letters Williams sent, between December 2018 and August 2019, regarding sentence modification, at least two of which also sought sentence credit.

<sup>3</sup> Williams has not filed a reply brief; thus, he has conceded the State's argument. See *Schlieper v. DNR*, 188 Wis. 2d 318, 322, 525 N.W.2d 99 (Ct. App. 1994).

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*