



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 II

March 8, 2023

To:

Hon. Timothy D. Boyle
Circuit Court Judge
Electronic Notice

Sarah Burgundy
Electronic Notice

Samuel A. Christensen
Clerk of Circuit Court
Racine County Courthouse
Electronic Notice

Reno K. Devore, #644401
Fox Lake Correctional Inst.
P.O. Box 200
Fox Lake, WI 53933-0200

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

2021AP1431-CR

State of Wisconsin v. Reno K. Devore (L.C. #2019CF1362)

Before Gundrum, P.J., Grogan and Lazar, 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).

Reno K. Devore appeals an order denying his request to have the circuit court order the Wisconsin Department of Corrections (DOC) to terminate withdrawals from his inmate account for restitution purposes during his period of initial confinement. 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 (2021-22).¹ We affirm.

¹ All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

Devore was convicted of robbery after he entered a BMO Harris Bank branch and instructed the teller to fill a bag with money. He was convicted based upon his no-contest plea and sentenced to a total incarceration term of seventeen years, bifurcated as eight years' initial confinement and nine years' extended supervision. An amended Judgment of Conviction identifies that a restitution hearing was held on March 1, 2021, at which time the circuit court ordered Devore to pay BMO Harris Bank \$6,150.

It appears undisputed that during the hearing, the circuit court acceded to Devore's request that he not be ordered to pay restitution until he was released to extended supervision.² On May 5, 2021, Devore wrote to the circuit court advising that the DOC was nonetheless withdrawing money for restitution from his account at Fox Lake Correctional Institution. The court apparently construed the letter as a WIS. STAT. § 974.06 motion and denied it, concluding the DOC had acted in accordance with the law by withdrawing funds from his inmate account for restitution purposes. Devore now appeals.

We reject Devore's appellate arguments because it is unclear what relief this court can provide him at this juncture. To date, it appears the amended Judgment of Conviction still contains language that would commence restitution withdrawals from Devore's inmate account upon his release to extended supervision.³ But Devore does not argue the circuit court's legal analysis in the order denying him relief was incorrect. Nor does he address the black-letter law

² Despite the appellate Record in this case lacking a transcript of the restitution hearing, this fact was acknowledged both in the amended Judgment of Conviction, which states, "Defendant is ordered to pay restitution during the pendency of probation[.]" and in the circuit court's order denying Devore relief.

³ The appellate Record does not suggest that upon denying Devore's motion the circuit court again amended the Judgment of Conviction to remove the "pendency of probation" language regarding restitution.

that “the circuit court, acting as the sentencing court, lacks the competency to address an allegedly improper disbursement of funds by the DOC.” *State v. Williams*, 2018 WI App 20, ¶4, 380 Wis. 2d 440, 909 N.W.2d 177.

“Once an inmate is sentenced to prison, he or she is under the control of the executive branch and must address his or her objections to the internal operating procedures of the DOC through the ICRS [inmate complaint review system], and then, if necessary, by writ of certiorari to the circuit court.” *Id.* (citation omitted). Though Devore’s May 5, 2021 letter suggests he may have pursued institutional review on this matter and was denied, his failure to proceed by certiorari in the circuit court is fatal to his claims.

To the extent Devore argues ordering *any* restitution was improper because the BMO Harris Bank he robbed was federally insured, we reject this assertion. This argument suffers from many problems, but the most glaring is the absence of a transcript of the restitution hearing in the appellate Record. “It is the appellant’s responsibility to ensure completion of the appellate record and ‘when an appellate record is incomplete in connection with an issue raised by the appellant, we must assume that the missing material supports the [circuit] court’s ruling.’” *State v. McAttee*, 2001 WI App 262, ¶5 n.1, 248 Wis. 2d 865, 637 N.W.2d 774 (citation omitted). Devore certified to this court that no transcript was necessary for his appeal, an assertion plainly at odds with his responsibility to demonstrate that he preserved this argument for appellate review.

Therefore,

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.

Sheila T. Reiff
Clerk of Court of Appeals