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DISTRICT I

April 18, 2023

To:

Hon. Jean M. Kies
Circuit Court Judge
Electronic Notice

Christine A. Remington
Electronic Notice

Anna Hodges
Clerk of Circuit Court
Milwaukee County Safety Building
Electronic Notice

James A. Graham 237205
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:

2021AP1374-CR State of Wisconsin v. James A. Graham (L.C. # 2002CF6126)

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).

James A. Graham, *pro se*, appeals from an order denying his motion seeking reconsideration of the circuit court's order that denied his request for sentence modification. The dispositive issue is whether we have jurisdiction over this appeal. 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(1) (2021-22).¹ We further conclude that we do not have jurisdiction and, therefore, dismiss the appeal.

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

In October 2002, Graham robbed one Family Dollar store and attempted to rob a second. Graham was charged with armed robbery and attempted armed robbery. A jury convicted Graham of both offenses. In July 2003, he was sentenced to twenty-six years and three months of imprisonment for the armed robbery and twenty-five years of imprisonment for the attempted armed robbery, to be served consecutively. Since that time, Graham has pursued numerous appeals and petitions in this court.

As it pertains to this appeal, Graham filed a motion for sentence modification based on a new factor. On May 6, 2021, the circuit court denied the motion. On May 21, 2021, Graham filed a motion for reconsideration of the circuit court's order denying his motion. He argued that the circuit court erroneously exercised its discretion when it narrowed the scope of his claim for sentence modification. On June 1, 2021, the circuit court denied the motion for reconsideration.

Graham then filed a notice of appeal seeking to appeal the June 1, 2021 order denying his motion for reconsideration of the May 6, 2021 order, the court's order, which denied his motion for sentence modification. By prior order, this court explained that it lacked jurisdiction to review the May 6, 2021 order denying sentence modification. We asked the parties to address whether we had jurisdiction over the June 1, 2021 order denying Graham's motion for reconsideration as the first issue in their briefs.

“No right of appeal exists from an order denying a motion to reconsider which presents the same issues as those determined in the order or judgment sought to be reconsidered.” *See Silverton Enters., Inc. v. General Cas. Co.*, 143 Wis. 2d 661, 665, 422 N.W.2d 154 (Ct. App. 1988). This prevents a party from using a motion for reconsideration to extend the time to

appeal from a judgment or order when that time has expired. *Id.*; see also *Ver Hagen v. Gibbons*, 55 Wis. 2d 21, 26, 197 N.W.2d 752 (1972).

Graham’s motion for reconsideration did not raise any new issues. It simply reframed or restated—in an effort to bolster—the arguments Graham raised in his motion for sentence modification. Therefore, we lack jurisdiction over this appeal. See *Silverton Enters., Inc.*, 143 Wis. 2d at 665; see also *State v. Inglin*, 224 Wis. 2d 764, 778, 592 N.W.2d 666 (Ct. App. 1999) (providing that whether a court has jurisdiction presents an issue of law that this court reviews *de novo*).

Therefore,

IT IS ORDERED that this appeal is dismissed.

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

Sheila T. Reiff
Clerk of Court of Appeals