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DISTRICT I

April 25, 2023

To:

Hon. M. Joseph Donald
Circuit Court Judge
Electronic Notice

Sara Lynn Shaeffer
Electronic Notice

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

Antonio Mays 266902
Green Bay Correctional Inst.
P.O. Box 19033
Green Bay, WI 54307-9033

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

2022AP1101-CR

State of Wisconsin v. Antonio Mays (L.C. # 2002CF271)

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).

Antonio Mays, *pro se*, appeals an order of the circuit court denying his postconviction motion seeking sentence credit for time he spent on extended supervision. 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 summarily affirm.

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

Mays was convicted in June 2003 of armed robbery with the use of force, as a party to a crime. He was sentenced to ten years of initial confinement followed by ten years of extended supervision.

In June 2018, his extended supervision was revoked. He filed a *pro se* motion seeking sentence credit for the time he had spent on extended supervision. That motion was denied by the circuit court, stating that postsentencing credit determinations are under the purview of the Department of Corrections. Mays did not appeal that decision.

Mays has now filed another postconviction motion seeking sentence credit for the time he spent on extended supervision prior to it being revoked. He argues that his “extended supervision street time credit” was “unlawfully” added to his reconfinement term and, as a result, he is being confined beyond his maximum discharge date. The circuit court again denied his motion. Mays appeals.

The record clearly shows that Mays raised this claim in his previous postconviction motion and, as a result, it may not be raised in subsequent motions. *See State v. Witkowski*, 163 Wis. 2d 985, 990, 473 N.W.2d 512 (Ct. App. 1991) (“A matter once litigated may not be relitigated in a subsequent postconviction proceeding no matter how artfully the defendant may rephrase the issue.”). This claim is therefore procedurally barred. *See State ex rel. Washington v. State*, 2012 WI App 74, ¶27, 343 Wis. 2d 434, 819 N.W.2d 305 (“Whether a defendant’s appeal is procedurally barred is a question of law that we review *de novo*.”) Accordingly, we affirm the circuit court’s order denying the motion.

Upon the foregoing,

IT IS ORDERED that the judgment 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