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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  
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**DISTRICT IV**

May 11, 2023

To:

Hon. Todd L. Ziegler  
Circuit Court Judge  
Electronic Notice

Sonya Bice  
Electronic Notice

Laura Endres  
Clerk of Circuit Court  
Monroe County Courthouse  
Electronic Notice

Kathleen Henry  
Electronic Notice

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

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2022AP1231-CR

State of Wisconsin v. Gerrod R. Bell (L.C. # 2001CF239)

Before Kloppenburg, Fitzpatrick, and Nashold, 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).**

Gerrod Bell appeals a 2021 judgment of conviction and an order denying his request for credit for time he served on a sentence before it was vacated. 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).<sup>1</sup> We affirm.

For reasons that are not material to this appeal, Bell was resentenced on count one in 2021. Although count one was originally sentenced as concurrent with the other two counts in

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

the case, on resentencing the circuit court imposed a consecutive sentence of eighteen years of initial confinement and seven years of extended supervision. Bell moved to have the time he had already served on count one credited against that new sentence. The circuit court denied the motion.

On appeal, the State argues that Bell is not entitled to credit under WIS. STAT. § 973.04, which provides: “When a sentence is vacated and a new sentence is imposed upon the defendant for the same crime, the department shall credit the defendant with confinement previously served.” The State argues that Bell is not entitled to credit because the facts of his situation align with those in a case holding that the defendant was not entitled to such credit. See *State v. Lamar*, 2011 WI 50, ¶4, 334 Wis. 2d 536, 799 N.W.2d 758.

In reply, Bell concedes that *Lamar* applies here and bars his requested credit, whether his request is considered under WIS. STAT. § 973.04 or WIS. STAT. § 973.155. However, he argues that we should not follow *Lamar*, but should certify this case to the supreme court for it to overrule *Lamar*. We decline to certify this case and, instead, we affirm based on *Lamar*.

IT IS ORDERED that the judgment and order appealed from are summarily affirmed under 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*