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DISTRICT I

June 13, 2023

To:

Hon. Carolina Stark
Circuit Court Judge
Electronic Notice

Jacob J. Wittwer
Electronic Notice

Anna Hodges
Clerk of Circuit Court
Milwaukee County Appeals Processing
Electronic Notice

Terrance Edwards
10811 W. Florist Ave.
Milwaukee, WI 53225

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

2021AP923

State of Wisconsin ex rel. Terrance Edwards v. Department of
Corrections (L.C. # 2020CV7504)

Before Brash, C.J., Donald, P.J., and White, J.

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).

Terrance Edwards, *pro se*, filed notices of appeal to challenge a January 22, 2021 order denying his petition for a writ of habeas corpus and an April 2, 2021 order denying his motions for reconsideration. By order dated July 7, 2021, we indicated that because the notice of appeal for the January 22 order had been filed on May 24, 2021, which was more than ninety days after the order's entry, we lacked jurisdiction to review the January 22 order. *See* WIS. STAT. § 808.04(1) (2021-22);¹ WIS. STAT. RULE 809.10(1)(e). Further, we directed the parties to “address, as the first issue in their appellate briefs, whether this court has jurisdiction to review

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

the April 2, 2021 reconsideration order.”² 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).³ The appeal is summarily dismissed for lack of jurisdiction.

A motion for reconsideration ordinarily does not affect the time for appeal. *See Continental Cas. Co. v. Milwaukee Metro. Sewerage Dist.*, 175 Wis. 2d 527, 533-35, 499 N.W.2d 282 (Ct. App. 1993). Appeal cannot be taken from an order denying a motion for reconsideration that presents the same issues as those determined in the order sought to be reconsidered. *See Silvertown Enters., Inc. v. General Cas. Co.*, 143 Wis. 2d 661, 665, 422 N.W.2d 154 (Ct. App. 1988). When no appeal is taken from a judgment or order within prescribed time limits, error in that judgment or order cannot be reached by appeal of an order denying a motion to set it aside. *See Ver Hagen v. Gibbons*, 55 Wis. 2d 21, 26, 197 N.W.2d 752 (1972). A party is entitled to move for reconsideration, but “must present issues other than those determined by the order or judgment for which review is requested in order to appeal from the order entered on the motion for reconsideration.” *Id.* We thus compare the issues raised in the reconsideration motion with the issues disposed of in the order denying the writ petition. *See Harris v. Reivitz*, 142 Wis. 2d 82, 87, 417 N.W.2d 50 (1987).

In Edwards’ writ petition, he claimed that the Department of Corrections had improperly applied 441 days of sentence credit and had calculated the wrong release date for him, thereby depriving him of the credit. The circuit court denied the petition, concluding that the date had

² Edwards’ brief does not address the jurisdictional question.

³ All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

been correctly calculated.⁴ In the reconsideration motions—there were six—Edwards simply repeats the same arguments regarding the perceived miscalculations. Because there are no new issues presented in any of the reconsideration motions, we lack jurisdiction over this appeal.

Therefore,

IT IS ORDERED that the appeal is summarily dismissed. *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

⁴ The Department evidently started with the sentencing date, subtracted the credit, then added the sentence time to calculate the release date. Edwards complains that this was improper, because the credit was not taken from the end of the sentence. We note, however, that the Department's method yields the same result as starting on the sentencing date, adding the sentence, then subtracting the credit.