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DISTRICT III

June 11, 2024

To:

Hon. Ann N. Knox-Bauer
Circuit Court Judge
Electronic Notice

Nicholas DeSantis
Electronic Notice

Jill Scheithauer
Clerk of Circuit Court
Taylor County Courthouse
Electronic Notice

Kristopher W. Reid
Apt. C
109 S 2nd St.
Medford, WI 54451

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

2023AP1070-CR State of Wisconsin v. Kristopher W. Reid
(L. C. No. 2017CF97)

Before Stark, P.J., Hruz and Gill, 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).

Kristopher Reid, pro se, appeals an order denying his petition for sentence adjustment pursuant to WIS. STAT. § 973.195 (2021-22).¹ Reid argues that the circuit court erroneously exercised its discretion by denying the petition. Based on our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. For the reasons discussed below, we summarily dismiss the appeal as moot. *See* WIS. STAT. RULE 809.21.

The State charged Reid with ten counts of felony possession of child pornography and one count each of felony possession of methamphetamine, misdemeanor possession of

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

Tetrahydrocannabinols (“THC”), and misdemeanor possession of drug paraphernalia. A jury ultimately acquitted Reid on five of the child pornography counts but convicted him of the other five child pornography counts and the three drug-related charges. The circuit court sentenced Reid to concurrent terms of four years of initial confinement followed by eight years of extended supervision on each of the felony child pornography counts, with concurrent jail terms on each of the drug charges. Reid moved for a new trial on the grounds of ineffective assistance of counsel. The court denied the motion without a hearing.

On direct appeal, appointed counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32, concluding there was no arguable basis to challenge the sufficiency of the evidence to support the verdicts, the denial of a pretrial suppression motion, the sentences, or trial counsel’s performance. Reid filed a response to the no-merit report disputing counsel’s conclusions on each of these issues. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we concluded there was no arguable basis for appeal, and we summarily affirmed the judgment and postconviction order. *State v. Reid*, No. 2021AP1809-CRNM, unpublished slip op. and order (WI App Aug. 8, 2023).

During the pendency of his no-merit appeal, Reid petitioned the circuit court for sentence adjustment, asserting that sentence adjustment was in the interest of justice. The State opposed the petition. The court denied the petition, concluding it was not in the public interest and reasoning that Reid had “not completed the programs required by the DOC and [had] failed to take responsibility for his offenses.” Reid appeals.

Reid argues that the circuit court erroneously exercised its discretion because it failed to consider Reid’s inability to participate in treatment programs in which he would be expected to

discuss his offenses while he was also pursuing his direct appeal. Reid also notes that the court did not consider that treatment programs can be completed while on extended supervision. Reid suggests that his petition was denied because he chose to exercise his appellate rights. Reid, however, acknowledges that he was set for release to extended supervision on January 15, 2024.

“[A] case is moot when the decision sought by the parties cannot have any practical legal effect upon a then existing controversy.” *W.J.C. v. County of Vilas*, 124 Wis. 2d 238, 239, 369 N.W.2d 162 (Ct. App. 1985). As a matter of judicial economy, we generally decline to review a case as soon as mootness is shown, regardless of when or how it is shown. *Reserve Life Ins. Co. v. La Follette*, 108 Wis. 2d 637, 643 n.4, 323 N.W.2d 173 (Ct. App. 1982). We may, however, decide moot appeals on the merits where the constitutionality of a statute is involved or where the precise situation under consideration is likely to arise again, such that a definitive decision is essential to guide circuit courts. *DeLaMatter v. DeLaMatter*, 151 Wis. 2d 576, 591-92, 445 N.W.2d 676 (Ct. App. 1989). We may also review a moot appeal if the issue is one of great importance and evades review because the appellate process cannot be completed in time. *Shirley J.C. v. Walworth County*, 172 Wis. 2d 371, 375, 493 N.W.2d 382 (Ct. App. 1992).

Here, release on extended supervision was the only possible relief available to Reid had he succeeded on his petition for sentence adjustment. *See* WIS. STAT. § 973.195(1r)(g). Because Reid has already been released on extended supervision, the matter is now moot. Additionally, this appeal does not present any of the factors that might persuade us that a decision on the merits is appropriate. Accordingly, we will dismiss the appeal as moot.

Upon the foregoing,

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.

Samuel A. Christensen
Clerk of Court of Appeals