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WISCONSIN COURT OF APPEALS

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
Web Site: www.wicourts.gov

DISTRICT II

August 21, 2024

To:

Hon. Kent R. Hoffmann
Circuit Court Judge
Electronic Notice

Lisa E.F. Kumfer
Electronic Notice

Chris Koenig
Clerk of Circuit Court
Sheboygan County Courthouse
Electronic Notice

Quentin Lee Rogers #119970
Sheboygan County Detention Center
2923 S. 31st St.
Sheboygan, WI 53081

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

2023AP534-CR State of Wisconsin v. Quentin Lee Rogers (L.C. #2023CF4)

Before Gundrum, P.J., Grogan and Lazar, 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).

Quentin Lee Rogers, pro se, appeals a circuit court order denying his pretrial petition for habeas corpus relief. He raises a number of issues that are undeveloped, meritless, or moot. 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.

On December 5, 2022, police were dispatched in response to an altercation between Rogers and his girlfriend. The criminal complaint alleges that Rogers hit the victim and then drove off in her vehicle. Rogers was issued a citation for battery and was taken into custody on a supervision hold.

After the present charges were filed, Rogers refused to leave his jail cell to make an initial appearance. Instead, on January 17, 2023, Rogers filed a petition seeking a writ of habeas corpus in the circuit court alleging he was being unlawfully held.² He alleged his extended supervision in prior cases had ended and no probation holds or warrants had been issued. The circuit court denied the petition, deeming it both facially insufficient and unsubstantiated by Department of Corrections records. Rogers now appeals.

Our review is confined to the denial of the petition for a writ of habeas corpus, which is the only order referenced in the notice of appeal. Rogers raises many other issues relating to his underlying criminal case that are not properly before us. *See State v. Baldwin*, 2010 WI App 162, ¶61, 330 Wis. 2d 500, 794 N.W.2d 769. We do not address those issues.

The appellate record, as supplemented by the State, contains an order to detain Rogers issued on December 5, 2022, in connection with sentences on a 1998 Milwaukee County conviction and a 2014 Fond du Lac County conviction. Though Rogers argues he was no longer

² Our prior orders in this appeal have observed that the habeas petition and subsequent order were inadvertently docketed in the underlying criminal case as opposed to being docketed as a separate civil matter. The State's brief notes the procedural oddity but the State has not filed a motion to amend the caption. Rogers, for his part, believes this docketing error warrants reversal, but he provides no legal basis for his assertion that an error by the clerk of circuit court alone would warrant habeas relief.

on extended supervision or probation for those offenses at the time he was held, he submitted nothing to the circuit court as proof to demonstrate that he was entitled to release from custody.

In any event, Rogers's challenge to the validity of the December 5 custody hold is now moot. CCAP records show Rogers requested to represent himself early on and waived the time limits for the preliminary hearing. A preliminary hearing was ultimately held on April 17, 2024, at which time Rogers was bound over for trial.³ He is now being held in custody pursuant to that determination, not because of any probation hold, and habeas corpus is not available to challenge a bindover decision. *See State ex rel. Dowe v. Circuit Ct. for Waukesha Cnty.*, 184 Wis. 2d 724, 734, 516 N.W.2d 714 (1994). Therefore, even if this court agreed with Rogers that he was at one time being unlawfully held, he would not be entitled to relief from the restraint on his liberty. *See* WIS. STAT. § 782.01. His appeal is therefore moot. *See Portage County v. J.W.K.*, 2019 WI 54, ¶11, 386 Wis. 2d 672, 927 N.W.2d 509 (an issue is moot when it will have no practical effect on an existing controversy).

Rogers's reply brief does not materially dispute any of the foregoing. Instead, he requests that this court exercise its power of discretionary reversal under WIS. STAT. § 752.35. We exercise our discretionary reversal power sparingly and only in the most exceptional cases. *State v. Klapps*, 2021 WI App 5, ¶31, 395 Wis. 2d 743, 954 N.W.2d 38. We are unpersuaded this is such a case.

³ Rogers has filed a motion requesting that we take judicial notice that his preliminary hearing was held on April 17, 2024. We may take judicial notice of CCAP records. *Kirk v. Credit Acceptance Corp.*, 2013 WI App 32, ¶5 n.1, 346 Wis. 2d 635, 829 N.W.2d 522. Accordingly, we grant the motion.

Separately, we note that CCAP records show the lengthy time period between Rogers's arrest and his bindover was attributable, at least in part, to his vacillating attitudes toward having appointed counsel or representing himself, the filing of this appeal, and his frequent pro se motions.

Based on the foregoing,

IT IS ORDERED that the order 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.

Samuel A. Christensen
Clerk of Court of Appeals