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DISTRICT IV

January 4, 2013

To:

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

2011AP2392

State of Wisconsin ex rel. Rodosvaldo C. Pozo v. Tim Haines,
Warden (L.C. # 1995CF382)

Before Lundsten, P.J., Higginbotham and Blanchard, JJ.

Rodosvaldo Pozo appeals an order denying his petition for writ of habeas corpus. 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(1) (2009-10).¹ We affirm.

Pozo argues that the circuit court erred by denying his motion without an evidentiary hearing and ignoring the evidence he submitted. Pozo's argument appears to be that his time in

¹ All references to the Wisconsin Statutes are to the 2009-10 version unless otherwise noted.

segregation cannot be used to extend his mandatory release date because he was not given proper notice of the disciplinary hearings that resulted in segregation. Improper notice of a hearing is normally raised through review of the specific disciplinary decision that resulted in segregation. Pozo does not state whether he raised this issue in seeking review of the segregation decisions when those decisions were originally made. Pozo has not cited any legal authority that allows him to challenge the extension of his mandatory release date on the ground that certain past periods of segregation were imposed unlawfully because of inadequate notice. More specifically, he fails to identify authority contrary to our best understanding, which is that the proper time to have raised that issue would have been when the discipline was first imposed.

Pozo also argues that we should award him the \$1,000 statutory penalty that applies when a habeas writ is improperly denied. That penalty is not available in this case because we have not concluded that the writ was improperly denied.

IT IS ORDERED that the order appealed is summarily affirmed under WIS. STAT. RULE 809.21(1).

Diane M. Fremgen
Clerk of Court of Appeals