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**DISTRICT III**

January 23, 2013

To:

Hon. Earl Schmidt  
Reserve Judge

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

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2012AP290

State v. Jack E. Minniecheske (L.C. #1996CF143)

Before Hoover, P.J., Mangerson, J., and Thomas Cane, Reserve Judge.

Jack Minniecheske, pro se, appeals a 1997 judgment of conviction. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition and we summarily affirm. *See* WIS. STAT. RULE 809.21.<sup>1</sup>

Minniecheske was charged in Shawano County case No. 1996CF143 with felony fleeing an officer, which occurred at approximately 3 a.m. on August 10, 1996. After a jury trial, he was convicted of that felony on July 22, 1997, and two ordinance violations consisting of operating

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

while intoxicated and open intoxicants in a motor vehicle. According to the judgment of conviction, he was sentenced to four months' jail on the felony, and a forfeiture, fines and license suspension were imposed on the ordinance violations.

On January 18, 2012, Minniecheske filed a motion to vacate the 1997 judgment of conviction. By written decision entered February 1, 2012, the circuit court denied relief. Minnecheske now appeals.<sup>2</sup>

The time limits for a direct appeal from the judgment of conviction entered July 22, 1997, have long since expired. Minniecheske may not take a direct appeal more than fourteen years after a judgment of conviction and sentencing.

Moreover, postconviction relief under WIS. STAT. § 974.06 is unavailable because Minniecheske is not in custody on any offense related to case No. 1996CF143, nor was he in custody in January 2012, when he filed his motion to vacate the judgment of conviction. Minnecheske was sentenced to only four months' jail time on his felony conviction, and no incarceration was imposed for his ordinance violations. His four-month jail sentence has long since expired.

In the caption of his motion to vacate the judgment of conviction, Minniecheske mentioned "sec. 806.07(c)(d)." However, even assuming for the sake of argument that WIS. STAT. § 806.07 applies to criminal cases, WIS. STAT. § 806.07(2) requires that such motion be

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<sup>2</sup> Minniecheske's notice of appeal does not specify the order or judgment appealed from. The notice of appeal lists two circuit court cases, Nos. 1996CF143 and 2011CF34. According to an order dated May 23, 2012, the appeal in case No. 2011CF34 was dismissed on March 22, 2012. Remittitur occurred on April 26, 2012. Accordingly, only appeal No. 2012AP290 involving circuit court case No. 1996CF143 is before this court on this appeal.

filed within a reasonable time. If the motion is based upon subsection (1)(a) or (c), it must be filed within one year after entry of the judgment. WIS. STAT. § 806.07(2). Minniecheske's motion was filed on January 18, 2012, which is not within one year after entry of judgment, nor within a reasonable time as a matter of law.

Minnecheske also suggests the circuit court lacked jurisdiction because the “case was removed to Federal Court on Constitutional Civil Rights violations and the Federal Court had not remanded the case back to the Shawano Circuit Court.” This contention is insufficiently supported by citation to the record on appeal and we shall not consider it further. *See M.C.I., Inc. v. Elbin*, 146 Wis. 2d 239, 244-45, 430 N.W.2d 366 (Ct. App. 1988).

Upon the foregoing,

IT IS ORDERED that the judgment is summarily affirmed. *See* WIS. STAT. RULE 809.21.

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*Diane M. Fremgen*  
*Court of Appeals*