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DISTRICT IV

March 18, 2013

To:

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

2012AP808-CR

State of Wisconsin v. Eddie G. Evans (L.C. # 2003CF1002)

Before Lundsten, P.J., Sherman and Kloppenburg, JJ.

Eddie Evans appeals an order dated April 25, 2012, denying his latest motion for sentence modification. After reviewing the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2011-12).¹ We affirm.

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

The circuit court's order states that the motion was denied "for the reasons stated on the record." As the State points out, however, the appellate record does not include a transcript of the hearing at which the circuit court issued its bench ruling.

It is the appellant's responsibility to provide this court with an adequate record. *See Fiumefreddo v. McLean*, 174 Wis. 2d 10, 26, 496 N.W.2d 226 (Ct. App. 1993). In the absence of a complete record, we will assume "that every fact essential to sustain the trial court's decision is supported by the record." *Fischer v. Wisconsin Patients Comp. Fund*, 2002 WI App 192, ¶6 n.4, 256 Wis. 2d 848, 650 N.W.2d 75.

Evans asserts that the missing transcript was included in the record for a prior appeal from the same decision that was dismissed as premature. We do not find that assertion plausible because: (1) the current record consists of all of the previously filed record items plus three additional documents that postdate the prior appeal, and (2) the docket entries do not show that the transcript was ever filed in the circuit court.

Because we cannot meaningfully review the circuit court's decision without the missing transcript, and because it was the appellant's responsibility to provide that transcript,

IT IS ORDERED that the order denying sentence modification is summarily affirmed pursuant to WIS. STAT. RULE 809.21(1).

Diane M. Fremgen
Clerk of Court of Appeals