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**DISTRICT IV**

July 3, 2013

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

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2012AP1004-CR

State of Wisconsin v. Raymond M. Sabbatini (L.C. # 2004CF377)

Before Higginbotham, Sherman and Blanchard, JJ.

Raymond Sabbatini appeals an order of the circuit court denying his petition for adjustment to his sentence in Dodge County Circuit Court case number 2004CF377. 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 (2011-12).<sup>1</sup> We summarily affirm.

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

We begin by noting that Sabbatini's brief fails to comply with the standard requirements set forth in WIS. STAT. RULE 809.19 in several ways. In particular, the brief does not contain citations to the record to support Sabbatini's factual allegations, nor does it contain relevant legal citations to support his arguments. "A party must do more than simply toss a bunch of concepts into the air" and hope that the court or the opposing party will arrange them into viable theories supported by fact and law. *State v. Jackson*, 229 Wis. 2d 328, 337, 600 N.W.2d 39 (Ct. App. 1999). WISCONSIN STAT. RULE 809.83(2) provides us with the authority to strike a paper as a sanction for noncompliance with any appellate rule. Accordingly, Sabbatini's brief is hereby stricken for failure to comply with the appellate briefing rules set forth in WIS. STAT. RULE 809.19, and we summarily affirm the order of the circuit court. However, even if the brief were not stricken, we would still affirm the circuit court, as explained below.

Sabbatini filed a petition for positive adjustment time under WIS. STAT. § 973.198. That statute allows the circuit court to convert the "time remaining in the term of confinement in prison portion of the sentence" to extended supervision time. WIS. STAT. § 973.198(5). Initially, the circuit court granted Sabbatini's petition in an order entered February 14, 2012. However, the Department of Corrections responded with a letter requesting clarification of the order, due to the fact that Sabbatini had already completed the confinement in prison portion of his sentence in case number 2004CF377 prior to the filing of his petition. The circuit court entered a new order on April 4, 2012, nullifying its prior order and concluding that Sabbatini was not entitled to any positive adjustment time because it was impossible to reduce the confinement portion of a sentence after the confinement portion had already been served.

We agree. The record reflects that Sabbatini completed the confinement portion of his sentence in case number 2004CF377 on July 1, 2011, but did not file his petition for sentence

adjustment in that case until December 27, 2011. The statute under which Sabbatini sought adjustment to his sentence contemplates that a term of confinement in prison may be reduced “by the amount of time remaining in the term of confinement in prison portion of the sentence, less up to 30 days[.]” WIS. STAT. § 973.198(5). Without any time remaining on the confinement portion of Sabbatini’s sentence in case number 2004CF377, the circuit court could not grant Sabbatini positive adjustment time according to the method stated in WIS. STAT. § 973.198(5).

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

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*Diane M. Fremgen*  
*Clerk of Court of Appeals*