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DISTRICT I

June 23, 2016

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

2015AP250-CR

State of Wisconsin v. Richard P. Bablitch (L.C. # 2011CF4467)

Before Curley, P.J., Brennan and Brash, JJ.

Richard P. Bablitch, *pro se*, appeals a circuit court order denying his motion to remove information about himself and his case from the Consolidated Court Automation Program (C.C.A.P.). Upon our review of the briefs and record, we conclude at conference that this matter is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2013-14).¹ We summarily affirm the order.

¹ All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

Bablitch was convicted in 2012 of third-degree sexual assault, a class G felony carrying a maximum sentence of ten year of imprisonment and a twenty-five thousand dollar fine. *See* WIS. STAT. §§ 940.225(3), 939.50(3)(h) (2011-12). The circuit court imposed an evenly bifurcated eight-year term of imprisonment. Two years later, Bablitch petitioned the circuit court to make information about the case inaccessible to the public. The circuit court denied the motion, and Bablitch appeals.

Bablitch offers no statutory authority permitting the circuit court to grant the relief he seeks. He cites WIS. STAT. RULE 809.23(1), but that rule of appellate procedure has nothing to do with public access to information about defendants and their circuit court cases. Rather, RULE 809.23 describes the criteria for publishing an appellate opinion in the official reports of cases decided by the Wisconsin supreme court and court of appeals.

The State summarizes the provisions of WIS. STAT. § 973.015, which permits expungement of some criminal records, and explains that the provisions are inapplicable here. Pursuant to § 973.015(1m), a circuit court may expunge a person's record of conviction if: (1) the person was under twenty-five years old when he or she committed either a misdemeanor or certain felonies for which the maximum sentence is six years or less; and (2) the judge ordered the expungement at the time of sentencing. Bablitch was more than twenty-five years old when he committed the class G felony at issue in this case, so § 973.015(1m) does not apply. Section 973.015(2m) permits expungement if the crime is an act of prostitution committed while the offender is a victim of human sex trafficking. Bablitch was convicted of a crime other than prostitution, and he was not a victim of human trafficking when he committed that crime, so § 973.015(2m) does not apply.

Circuit courts do not have the inherent authority to expunge adult criminal convictions outside the provisions of WIS. STAT. § 973.015. 70 Wis. Op. Att’y. Gen. 115, 115 (1981). Accordingly, expungement is not available to Bablitch.

Bablitch also fails to demonstrate any authority permitting the circuit court to seal his criminal record. WISCONSIN STAT. § 59.20(3) requires clerks of circuit court to “open to the examination of any person all books and papers required to be kept.” *See id.* The statute “reflects a basic tenet of the democratic system that the people have the right to know about operations of their government, including the judicial branch, and that where public records are involved the denial of public examination is contrary to the public policy and the public interest.” *State ex rel. Bilder v. Township of Delavan*, 112 Wis. 2d 539, 553, 334 N.W.2d 252 (1983) (discussing WIS. STAT. § 59.14 (1981-82)).² Generally, the public has an “absolute right” to inspect court records, *see Bilder*, 112 Wis. 2d at 553-54, with three exceptions: (1) a statute authorizes sealing the records, *see id.* at 554; (2) disclosure would infringe on a constitutional right, *see id.* at 555; or (3) a court denies inspection “to preserve and protect the exercise of its judicial function,” *see id.* at 556.

Here, Bablitch complains he is “concerned about extortion” and “the potential for hate crimes” against himself and his family. He also complains that public awareness of his conviction hurts the reputation of one of his relatives, who held judicial office in Wisconsin. His complaints do not bring his case within any of the exceptions to the public’s right to inspect court records enumerated in *Bilder*. He cites no statute that authorizes sealing the records for the

² Effective September 1, 1996, the legislature renumbered WIS. STAT. § 59.14 as WIS. STAT. § 59.20(3). *See* 1995 Wis. Act 201, §§ 251, 703.

reasons he discusses; he does not identify a constitutional right that disclosure would violate; and he fails to show that secrecy is necessary to “preserve and protect the exercise of [the] judicial function,” *see id.* at 556. In sum, while Bablitch might prefer to have his criminal history sealed from public view, he, like the movant in *Bilder*, does not identify any legal right to keep the charges against him confidential. *See id.* at 555.

Therefore,

IT IS ORDERED that the order of the circuit court is summarily affirmed. *See* WIS. STAT. RULE 809.21(1).

Diane M. Fremgen
Clerk of Court of Appeals