



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215

P.O. BOX 1688

MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880

TTY: (800) 947-3529

Facsimile (608) 267-0640

Web Site: www.wicourts.gov

DISTRICT IV

October 9, 2025

To:

Hon. Stephen E. Ehlke
Circuit Court Judge
Electronic Notice

Jeff Okazaki
Clerk of Circuit Court
Dane County Courthouse
Electronic Notice

Karla Z. Keckhaver
Electronic Notice

Nate A. Lindell 303724
Stanley Correctional Inst.
100 Corrections Dr.
Stanley, WI 54768

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

2024AP695

Nate A. Lindell v. Jared Hoy (L.C. # 2024CV459)

Before Kloppenburg, Nashold, and Taylor, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Nate Lindell appeals a circuit court order that dismissed Lindell's petition for a writ of certiorari and the court's order denying Lindell's motion for reconsideration. Based on 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 (2023-24).*¹ We summarily affirm.

Lindell filed a petition for certiorari review in the circuit court, seeking reversal of two decisions by the Department of Corrections (DOC): (1) a decision dismissing Lindell's inmate

¹ All references to the Wisconsin Statutes are to the 2023-24 version unless otherwise noted.

complaint number CCI-2023-13801, which sought the return of property that Lindell alleged prison staff confiscated from him; and (2) a decision dismissing Lindell's inmate complaint number CC-2023-14306, which alleged that the DOC had improperly processed No. CCI-2023-13801.

The circuit court dismissed Lindell's petition for a writ of certiorari. The court determined that the petition fails to state a claim to challenge the DOC decision dismissing No. CCI-2023-13801 because the petition is dated November 27, 2023, which is beyond the 45-day deadline for seeking certiorari review of the DOC's September 25, 2023 decision. *See* WIS. STAT. § 893.735(2). The court determined that the petition fails to state a claim to challenge the decision dismissing No. CCI-2023-14306 because that "complaint was frivolous and made for the improper purpose of harassment."

Lindell moved for reconsideration. In its order denying the motion, the circuit court explained that Lindell could not obtain otherwise untimely certiorari review of the DOC decision dismissing No. CCI-2023-13801 by timely seeking certiorari review of the subsequent DOC decision dismissing No. CCI-2023-14306. The court noted that, if Lindell could avoid the untimeliness of the petition for certiorari review of the DOC decision dismissing No. CCI-2023-13801 by filing a new inmate complaint addressing that same DOC decision and timely seeking certiorari of the DOC decision dismissing the new complaint, "there would be no need for a 45-day deadline. In other words, WIS. STAT. § 893.735 would become irrelevant." Lindell appeals.

The Prison Litigation Reform Act requires a circuit court to review pleadings filed by a prisoner "as soon as practicable" after an action has been commenced and to dismiss the action if, among other things, the complaint is frivolous, used for an improper purpose, or fails to state a

claim upon which relief may be granted. WIS. STAT. § 802.05(4). “Whether [a] complaint states a claim for relief presents a question of law, which we review *de novo*.” *Cook v. Public Storage, Inc.*, 2008 WI App 155, ¶19, 314 Wis. 2d 426, 761 N.W.2d 645. “We construe the complaint liberally and assume the facts pleaded are true.” *Id.*

Here, Lindell does not dispute that his petition for certiorari review is untimely to obtain review of the DOC decision dismissing No. CCI-2023-13801. Rather, Lindell argues that his petition for certiorari review, which is timely to obtain review of the DOC decision dismissing No. CCI-2023-14306, states a claim that the DOC erred by dismissing No. CCI-2023-14306. Specifically, Lindell contends that his petition states a claim that the DOC violated its own rules by improperly processing No. CCI-2023-13801 and other prior complaints by Lindell.

We conclude that the circuit court properly dismissed Lindell’s petition for failure to state a claim. Lindell’s petition for a writ of certiorari asserts that the DOC erred in its handling of No. CCI-2023-13801. The petition asserts that Lindell filed No. CCI-2023-14306 to challenge the DOC’s improper handling of No. CCI-2023-13801 and to seek a proper resolution of No. CCI-2023-13801. The petition asserts that the DOC erred by dismissing No. CCI-2023-14306 based on its wrongful determination that it had properly processed No. CCI-2023-13801.

These assertions expressly establish that Lindell’s petition for certiorari review of No. CCI-2023-14306 was intended to obtain review of the procedure used by the DOC in resolving No. CCI-2023-13801. However, it is undisputed that the petition was untimely to obtain review of the DOC’s resolution of No. CCI-2023-13801. As the circuit court explained, Lindell cannot use a petition for certiorari review of the DOC decision dismissing No. CCI-2023-14306, which challenged the prior DOC decision resolving No. CCI-2023-13801, to obtain

the otherwise untimely review of the prior DOC decision resolving No. CCI-2023-13801. If, under these circumstances, the 45-day deadline for seeking certiorari review could be avoided by filing a new complaint and certiorari petition, the deadline would be meaningless. Accordingly, we agree with the circuit court that Lindell's petition fails to state a claim, and we conclude that the petition was properly dismissed on that basis.²

Therefore,

IT IS ORDERED that the orders are summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

*Samuel A. Christensen
Clerk of Court of Appeals*

² Lindell also contends that the circuit court's decision was unreasonable because the DOC addressed the merits of No. CCI-2023-14306, rather than rejecting it as raising an issue already addressed. However, whether the DOC addressed the merits of No. CCI-2023-14306 is not relevant to whether the petition for certiorari review of No. CCI-2023-14306 was properly dismissed as an impermissible attempt to obtain the time-barred review of the DOC's decision resolving No. CCI-2023-13801. We do not address this argument further.

Additionally, because we conclude that Lindell's petition fails to state a claim, and that the circuit court properly dismissed the petition on that basis, we need not determine whether the petition is frivolous or used for an improper purpose. *See State v. Smiter*, 2011 WI App 15, ¶9, 331 Wis. 2d 431, 793 N.W.2d 920 (2010) (we may affirm a circuit court's decision on different legal grounds).