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**DISTRICT II**

November 26, 2025

*To:*

Hon. Michael S. Gibbs  
Circuit Court Judge  
Electronic Notice

Karla Z. Keckhaver  
Electronic Notice

Desiree Bongers  
Clerk of Circuit Court  
Winnebago County Courthouse  
Electronic Notice

Peter J. Long  
1761 W. Butte Des Morts Beach Rd.  
Neenah, WI 54956

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

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2024AP2385

Peter J. Long v. Brian Hayes (L.C. #2024CV624)

Before Gundrum, Grogan, and Lazar, 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).**

Peter J. Long, pro se, appeals from a circuit court order affirming the revocation of his extended supervision. He also argues on appeal that the court erred when it denied his motion for reconsideration.<sup>1</sup> Based upon our review of the briefs and Record, we conclude at conference

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<sup>1</sup> Although Long's Notice of Appeal, which he filed on November 20, 2024, does not specifically reference the circuit court's November 11, 2024 denial of his motion for reconsideration, he raises the argument in his appellate briefing.

that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2023-24).<sup>2</sup> We affirm.

Long was on extended supervision in connection with two cases when the Department of Corrections (DOC) sought to revoke him for multiple alleged violations of his supervision conditions. An Administrative Law Judge (ALJ) conducted a revocation hearing at which Long proceeded pro se. Several police officers, Long's supervision agent, and the victim, T.B., testified for the DOC. Long testified on his own behalf, and while admitting to drinking vodka and tampering with his alcohol monitor, he denied assaulting or acting in a disorderly manner towards T.B. and also denied the THC-containing substance discovered at his residence was illicit.

The ALJ concluded the DOC provided sufficient evidence to prove five of the alleged violations: (1) Long consumed alcohol; (2) Long tampered with his alcohol-monitoring device; (3) Long physically assaulted T.B.; (4) Long acted in a disorderly manner towards T.B.; and (5) Long possessed illicit THC. Long stipulated to the first and second of these violations, and the ALJ determined that T.B.'s testimony, which the ALJ found to be more credible than Long's, established the third and fourth violations, and that officer testimony regarding a positive field test for THC was sufficient to prove the fifth violation. After considering the relevant factors as to whether to revoke Long's extended supervision or to impose an alternative to revocation (ATR), the ALJ ultimately determined "there [was] no appropriate ATR to address the seriousness of the violations" and that revocation was "necessary to protect the public from

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<sup>2</sup> All references to the Wisconsin Statutes are to the 2023-24 version.

further criminal activity by Mr. Long.” Based on the foregoing, the ALJ concluded Long should be reconfined for a total of 19 months.<sup>3</sup> Long appealed the ALJ’s decision to the Division of Hearing and Appeals (the Division), which sustained both the ALJ’s decision and reconfinement time.

Long filed a petition for writ of certiorari in the circuit court seeking review of his revocation. The court issued a writ, and the Division filed the certified record. After briefing on the merits, the court issued a written order affirming the Division’s revocation decision, quashing the writ of certiorari, and dismissing the case with prejudice. Long filed a motion for reconsideration, which the court denied. Long appeals.

This matter requires that we determine whether the Division erred in revoking Long’s extended supervision. On review of an extended supervision revocation, we review the Division’s decision rather than the circuit court’s decision, and “we apply the same standard of review as the circuit court.” See *State ex rel. Washington v. Schwarz*, 2000 WI App 235, ¶16, 239 Wis. 2d 443, 620 N.W.2d 414. Our review is limited to four inquiries: (1) whether the Division “kept within its jurisdiction”; (2) whether the Division “acted according to law”; (3) whether the decision “was arbitrary, oppressive, or unreasonable and represented” the Division’s “will and not its judgment; and (4) whether the evidence was such that” the decision in question might reasonably be made. See *id.* (citation omitted). This court does not “weigh the evidence” on review; instead, our “inquiry is limited to whether there is substantial evidence to

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<sup>3</sup> The ALJ noted that “one year, five months, and 22 days” were “available for reconfinement” in Winnebago County Circuit Court Case No. 2008CF151 and that “three years, and three days [were] available for reconfinement” in Washington County Circuit Court Case No. 2011CF345. The 19 months reconfinement imposed was considerably less than the total of these amounts.

support the [agency’s] decision.” *Van Ermen v. DHHS*, 84 Wis. 2d 57, 64, 267 N.W.2d 17 (1978). “Substantial evidence is evidence that is relevant, credible, probative, and of a quantum upon which a reasonable fact finder could base a conclusion.” *Von Arx v. Schwarz*, 185 Wis. 2d 645, 656, 517 N.W.2d 540 (Ct. App. 1994) (quoting *Cornwell Person. Assocs. v. LIRC*, 175 Wis. 2d 537, 544, 499 N.W.2d 705 (Ct. App. 1993)).

Long raises multiple arguments on appeal. Generally, Long says the Division “failed to ... act according to law” based on his (Long’s) belief that his extended supervision agent could not serve Long with revocation documents due to having initially imposed an 88-day sanction and because the Division “failed to acknowledge” documents Long says it either lost or misplaced. (Emphases omitted.) Long also asserts the Division “irrationally discounted” his “proposed alternatives to revocation” and that the Division’s decision was “arbitrary, capricious, unreasonable and represented its will and not its judgment” because it sustained a length of reconfinement Long says: (1) exceeded the length allowed for pursuant to the Division of Community Electronic Case Management Manual;<sup>4</sup> and (2) that was unreasonable and not supported by evidence in the Record. (Emphases omitted.) In support of these various allegations, Long further argues the violations related to the physical assault of T.B. and the violation regarding his possession of illicit THC were not proven because T.B. initially denied that Long assaulted her on the night of the incident and that the Division improperly relied on

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<sup>4</sup> The Division of Community Electronic Case Management Manual is an agency manual; it is not binding law.

T.B.’s later testimony, which Long claims was biased by T.B.’s supposed motive to lie.<sup>5</sup> Long also asserts the Division gave improper weight to the 911 recording and that the green, leafy substance discovered in Long’s home was “legal Delta-8” marijuana. (Emphasis omitted.)

In response, the State asserts “[t]he [R]ecord contains substantial evidence that Long violated his rules of supervision” and points specifically to Long’s admissions “that he drank vodka (violation 1) and tampered with his alcohol monitor (violation 2)[,]” the totality of the testimony presented at Long’s revocation hearing, and the ALJ’s and Division’s credibility determinations. The State further asserts the Division “reasonably concluded that an ATR was not appropriate and revocation was necessary” and that the Division considered the relevant factors in reaching this conclusion. Next, the State argues that to the extent Long raises complaints about his agent’s actions related to the revocation proceedings, those complaints “are not properly before the court.” Finally, the State asserts there is no support for Long’s assertion that the Division “lost some of his exhibits.”

Long ultimately failed to file a reply brief despite our having granted his March 2025 request for an extension to do so. In having failed to file a reply brief, Long is deemed to have conceded that the State’s position, which refutes each of the certiorari-related arguments Long raises in his appellate brief, is correct and that the circuit court therefore did not err when it affirmed the Division’s revocation determination. *See State v. Chu*, 2002 WI App 98, ¶41, 253 Wis.2d 666, 643 N.W.2d 878 (“[u]nrefuted arguments are deemed admitted” and we may

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<sup>5</sup> Long suggests that T.B. “had motive to change her story and ultimately fabricate a story about Long assaulting her” because he had evicted her and that she therefore directed “misplaced” “anger” toward him regarding this incident. (Emphasis omitted.)

therefore reject appellant’s “argument[s] without further discussion” when appellant fails to file a reply brief); *Charolais Breeding Ranches, Ltd. v. FPC Sec. Corp.*, 90 Wis. 2d 97, 109, 279 N.W.2d 493 (Ct. App. 1979).

Based on Long’s concessions, we conclude the Division did not err. Moreover, our own review of the Record confirms there is substantial evidence to support the Division’s revocation decision and that the decision was not arbitrary, oppressive, or unreasonable. For example, there is ample testimony that supports the five violations the Division sustained in its decision, and there is nothing in the Record that would support a conclusion that the credibility determinations were erroneous. There is likewise nothing in the Record to support Long’s claim that the Division failed to consider his proposed alternatives to revocation or that any of his defense exhibits were missing from the Record. Finally, to the extent Long raises complaints regarding his agent’s actions, those arguments are not properly before the court on appeal. And, again, Long has conceded each of these points in having failed to file a reply brief. *See Chu*, 253 Wis. 2d 666, ¶41; *Charolais Breeding Ranches, Ltd.*, 90 Wis. 2d at 109.

As a final matter, we note that Long also argues on appeal that the circuit court erroneously exercised its discretion when it denied his motion for reconsideration. According to Long, the court erred because the order stated that Long had “not allege[d] any new factors in this case.” Long asserts, however, that the court erred based on a manifest error of law and fact. We disagree. The arguments Long raised in his motion for reconsideration essentially rehashed the same arguments he raised in the first instance as to why he believed the Division’s decision was erroneous. As we explained, the Division did not err, and the same errors Long alleged in support of his writ of certiorari could not, therefore, support his claims of a manifest error of law or fact in his motion for reconsideration.

Upon the foregoing reasons,

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

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

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*Samuel A. Christensen*  
*Clerk of Court of Appeals*