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**DISTRICT II**

December 10, 2025

*To:*

Hon. Laura J. Lavey  
Circuit Court Judge  
Electronic Notice

Christine A. Remington  
Electronic Notice

Michelle Weber  
Clerk of Circuit Court  
Fond du Lac County Courthouse  
Electronic Notice

James M. Stratton, #224619  
Redgranite Correctional Institution  
P.O. Box 925  
Redgranite, WI 54970-0925

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

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2024AP923-CR

State of Wisconsin v. James M. Stratton (L.C. #2013CF281)

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).**

James M. Stratton appeals from a circuit court order granting the Department of Correction's (DOC) motion for reconsideration as to the enforceability of a special rule of supervision requiring that Stratton install and maintain an ignition interlock device (IID) on his vehicle. The court, in granting the DOC's motion, concluded the DOC had authority to impose the special rule and that the rule did not run afoul of WIS. STAT. § 343.301 (2023-24).<sup>1</sup> 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. We affirm.

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2023-24 version.

Stratton pled no contest to operating while intoxicated (OWI) as a ninth offense in April 2014.<sup>2</sup> The circuit court entered a judgment of conviction following the plea, and in addition to sentencing Stratton to 3 years of initial confinement and 5 years of extended supervision, the court also imposed a 36-month requirement that Stratton maintain an IID on his vehicle.<sup>3</sup> Stratton was released to extended supervision following his initial term of confinement; however, the DOC revoked his extended supervision in August 2021 following an alcohol-related violation. Following his re-release in July 2022, the DOC imposed the special rule of supervision requiring that Stratton install an IID on his vehicle due to his history of alcohol-related violations. In December 2022, the DOC revoked Stratton's extended supervision a second time due to his failure to comply with the IID special rule.

Stratton thereafter filed a motion with the circuit court challenging the IID special rule on the ground that he had already completed the court-ordered 36-month IID requirement, which he said was the maximum length that could be imposed related to the underlying conviction, and asked that the court waive the supervision rule. In response, Stratton's extended supervision agent filed a letter with the court explaining that Stratton was required to maintain the IID on all vehicles during the term of extended supervision unless the court waived the requirement. The letter further referenced WIS. ADMIN. CODE § DOC 328.04(3)(s) (Nov. 2024) as requiring Stratton to comply with any special rules imposed and that the IID requirement was "put in place specific to Mr. Stratton's criminal history of operating while intoxicated and the need to try to prevent him from operating a motor vehicle under the influence while intoxicated." Ultimately,

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<sup>2</sup> The operating with a prohibited alcohol concentration charge was dismissed but read in.

<sup>3</sup> The circuit court also imposed a 36-month license revocation requirement.

the court entered a written order in September 2023 granting Stratton’s request that the court waive the extended supervision IID requirement. The court explained that because Stratton’s sentence already included the maximum three-year IID requirement allowed under WIS. STAT. § 343.301—a requirement Stratton had already complied with—the DOC was prohibited from imposing any additional IID requirement for the duration of Stratton’s extended supervision.

Following the circuit court’s order, the court allowed the DOC to intervene, and the DOC filed a motion for reconsideration of the court’s order. The DOC argued that although the court had properly relied on *State ex rel. Kaminski v. Schwarz*, 2001 WI 94, 245 Wis. 2d 310, 630 N.W.2d 164, in regard to addressing the reasonableness of a rule or condition of probation, it had nevertheless erred in concluding that pursuant to *State v. Hoppe*, 2014 WI App 51, 354 Wis. 2d 219, 847 N.W.2d 869, WIS. STAT. § 343.301 prohibited the DOC from imposing the IID special rule. DOC contended that § 343.301 only applied to the maximum period of time a *court* could impose an IID requirement. In April 2024, the court held a hearing to address the motion for reconsideration, and it ultimately agreed with the DOC.<sup>4</sup> Accordingly, the court entered an order granting the DOC’s motion for reconsideration, “find[ing] that the ‘special rule’ that [Stratton] have an IID installed on his vehicle for the duration of his supervision is valid,” and denying Stratton’s “motion to waive the special rule of supervision.” Stratton appeals.

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<sup>4</sup> At the motion hearing, Stratton indicated to the circuit court that he had mailed a brief responding to the DOC’s motion for reconsideration; however, the court informed Stratton it had not received his brief and that there was nothing in the court’s Record indicating it had been received. The court provided Stratton with an opportunity to read his brief into the Record, which Stratton indicated was three pages long, but Stratton chose not to do so. Stratton also chose not to provide any additional oral argument in response to the DOC’s motion and instead simply “rel[ied] on the Court’s earlier decision.”

We must determine whether the circuit court erred in granting the DOC's motion for reconsideration based on its conclusion that the DOC did not exceed its authority when it imposed a condition of extended supervision requiring that Stratton install an IID on his vehicle. "To prevail on a motion for reconsideration, the movant must present either newly discovered evidence or establish a manifest error of law or fact." *Koepsell's Olde Popcorn Wagons, Inc. v. Koepsell's Festival Popcorn Wagons, Ltd.*, 2004 WI App 129, ¶44, 275 Wis. 2d 397, 685 N.W.2d 853. "We review a trial court's decision on a motion for reconsideration under the erroneous exercise of discretion standard." *Id.*, ¶6. A court properly exercises its discretion where it "examined the relevant facts, applied a proper standard of law, and, using a demonstrated rational process, reached a conclusion that a reasonable judge could reach." *Franke v. Franke*, 2004 WI 8, ¶54, 268 Wis. 2d 360, 674 N.W.2d 832 (citation omitted). Whether a DOC-imposed "condition or rule of [supervision] is contrary to law is a question of law, which this court reviews de novo." *Kaminski*, 245 Wis. 2d 310, ¶22.

Stratton contends the circuit court erred in granting the DOC's motion for reconsideration. He says the court's prior ruling—that the DOC exceeded its authority when it imposed the IID special rule because the court had already imposed the maximum length of time allowed pursuant to WIS. STAT. § 343.301 at sentencing, thereby leaving the DOC without any additional IID time to impose—was correct. Accordingly, he says, he should not be subject to the IID special rule during the course of his extended supervision.

The DOC, in response, asserts it had the authority to impose the IID special rule pursuant to WIS. STAT. §§ 973.09 and 973.10, which generally relate to the extended supervision conditions the circuit court, DOC, and the supervising agent may impose. Under § 973.10(1), the DOC says, it is authorized "to establish rules and regulations for supervisees, supplementing

court-imposed conditions,” and that WIS. ADMIN. CODE § DOC 328.04(1) and (2)(d) (Nov. 2024) allow the DOC and supervising agent to establish rules that are individualized to the supervisee. The IID special rule imposed here, it argues, was individualized to Stratton based on his history and prior alcohol-related violations and was therefore permissible. Finally, the DOC says that Stratton’s reliance on WIS. STAT. § 343.301 is misplaced because it only pertains to what a *court*—not the *DOC*—can order in terms of an IID requirement. It asserts that the court’s reliance on cases such as *Hoppe* and *Kaminski* when it initially ruled in Stratton’s favor regarding the IID special rule was misplaced.

Here, we need not reach the merits of Stratton’s argument because Stratton failed to file a Reply brief. Because Stratton did not file a Reply brief, he is deemed to have conceded that the DOC’s position, which refutes his argument that WIS. STAT. § 343.301 precludes the DOC from imposing the aforementioned rule, is correct and that the circuit court therefore did not err when it granted the DOC’s motion for reconsideration and denied his motion for waiver of the IID special rule of supervision. *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 therefore reject appellant’s “argument 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 Stratton’s concession, we conclude the court did not err.

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*