



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 8, 2026

To:

Hon. Jeffrey S. Kuglitsch
Circuit Court Judge
Electronic Notice

Michael C. Sanders
Electronic Notice

Amanda Nelson
Clerk of Circuit Court
Rock County Courthouse
Electronic Notice

Lamont Loyd Weber
2001 Leland Drive, Apt. 3
Madison, WI 53711

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

2025AP1522

State of Wisconsin v. Lamont Loyd Weber (L.C. # 2004CF901)

Before Graham, P.J., Blanchard, and Nashold, 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).

Lamont Loyd Weber, pro se, appeals a circuit court order denying his postconviction motion filed pursuant to WIS. STAT. § 974.06 (2023-24).¹ After reviewing the briefs and record, we conclude at conference that this case is appropriate for summary disposition. See WIS. STAT. RULE 809.21. For the reasons that follow, we vacate the order and remand with directions that the court dismiss Weber's motion.

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

In 2007, Weber was convicted of operating a motor vehicle while under the influence of an intoxicant, 7th offense. Weber completed his sentence, and his judgment of conviction was discharged in January 2020. Over five years later, Weber filed a WIS. STAT. § 974.06 motion seeking to withdraw his guilty plea. The circuit court issued a written order denying the motion. Weber appeals.

On appeal, Weber makes a number of arguments challenging the circuit court’s denial of his WIS. STAT. § 974.06 motion. We need not address the merits of Weber’s arguments, however, because his motion failed to meet a threshold requirement for consideration. A defendant seeking relief pursuant to § 974.06 must be “in custody” in relation to the case being challenged. § 974.06(1).

When a defendant is “no longer under sentence, nor in custody under the sentence of the state court” at the time of the filing of a motion for postconviction relief under WIS. STAT. § 974.06, the circuit court lacks jurisdiction to entertain the motion. *State v. Theoharopoulos*, 72 Wis. 2d 327, 330, 240 N.W.2d 635 (1976). That is the situation that occurred here. At the time Weber filed his postconviction motion for plea withdrawal, he had already completed serving his sentence and was no longer in state custody. The court therefore lacked jurisdiction to entertain the postconviction motion. *Id.* Accordingly, the court should have dismissed, rather than denied, Weber’s motion. We will vacate the order and remand the matter with instructions for the circuit court to dismiss Weber’s motion.

Additionally, on our own motion, we have reconsidered our order released on December 4, 2025, and withdraw the order. See WIS. STAT. RULE 809.24(3).

Therefore,

IT IS ORDERED that the order of the circuit court is summarily vacated, and the cause is remanded with directions to dismiss Weber's motion.

IT IS FURTHER ORDERED that this court's order dated December 4, 2025 is withdrawn.

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

Samuel A. Christensen
Clerk of Court of Appeals