



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

August 29, 2016

To:

Hon. Alan J. White
Circuit Court Judge
400 DeWitt St., P. O. Box 587
Portage, WI 53901-2157

Donald V. Latorraca
Assistant Attorney General
P.O. Box 7857
Madison, WI 53707-7857

Susan K. Raimer
Clerk of Circuit Court
Columbia County Courthouse
400 DeWitt St., P.O. Box 587
Portage, WI 53901-2157

Cole Daniel Ruby
Martinez & Ruby, LLP
144 4th Ave., Ste. 2
Baraboo, WI 53913

Jane E. Kohlwey
District Attorney
P.O. Box 638
Portage, WI 53901-0638

Ryan D. Cook
321 Schwantz Road
Pardeeville, WI 53954

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

2015AP1398-CR

State of Wisconsin v. Ryan D. Cook (L.C. # 2011CF66)

Before Lundsten, Sherman and Blanchard, JJ.

Ryan Cook appeals a judgment of conviction. 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 (2013-14).¹ We affirm.

In his brief on appeal, Cook's first two arguments relate to the revocation of his probation on three misdemeanor counts. Specifically, he argues that we should reverse the circuit court's

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

decision rejecting his request for habeas corpus relief that was grounded on a claim that his probation revocation counsel was ineffective.

No habeas decision is before us in this appeal in a criminal case from a judgment of conviction. Cook asserts that the two matters were inextricably intertwined, but the record shows otherwise. The habeas decision, as provided to us by Cook in his appendix, was entered under a civil circuit court case number, not in this criminal case. Cook apparently has not filed a notice of appeal in the civil case, and the time to do so cannot now be extended. *See* WIS. STAT. RULE 809.82(2). Therefore, the habeas decision is not before us.

Cook further argues that, if we reach this conclusion, we should remand for fact finding on whether his failure to appeal in the habeas case was based on the “mis-advice” of counsel. Essentially, Cook is asking us to treat this request in his brief as a petition alleging ineffective assistance or malpractice by his attorney in the civil habeas case. Cook has not developed a legal argument establishing that this type of relief is available in this court, or in any court, and we therefore decline to take further action on this request.

The third argument in Cook’s brief is that the circuit court erred by revoking the deferred prosecution agreement on the felony count. This argument is properly before us because it concerns an action by the circuit court in the criminal case.

However, Cook’s argument fails on the merits. Cook argues that the circuit court should not have revoked the deferred prosecution agreement because that revocation was based on the revocation of Cook’s misdemeanor probation, which he asserts should be vacated due to the ineffectiveness of counsel. This argument fails because a writ action is the exclusive method for raising the ineffectiveness of the defendant’s probation revocation counsel. And, in the context

of the above habeas case, the court determined that the revocation of the misdemeanor probations was constitutionally sound.

IT IS ORDERED that the judgment appealed is summarily affirmed under WIS. STAT. RULE 809.21.

Diane M. Fremgen
Clerk of Court of Appeals