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DISTRICT IV

June 5, 2025

To:

Hon. Brian A. Pfitzinger
Circuit Court Judge
Electronic Notice

Christine A. Remington
Electronic Notice

Kelly Enright
Clerk of Circuit Court
Dodge County Justice Facility
Electronic Notice

Stephen Matthew Davis
MMHI
301 Troy Drive
Madison, WI 53704

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

2024AP1662-CR

State of Wisconsin v. Stephen Matthew Davis
(L.C. # 2022CF340)

Before Blanchard, P.J., 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).

Stephen Matthew Davis appeals an order denying his motion to enforce the order for initial placement that was entered as part of his commitment under WIS. STAT. § 971.17 (2023-24).¹ 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 dismiss the appeal as moot.

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

In Davis’s motion, he asked the circuit court to enforce that part of the placement order that placed him in institutional care and directed the sheriff to transport him to, quoting the order, “the mental health institute designated by DHS,” the Department of Health Services. Davis asserted that, despite that order, he remained in the custody of the Department of Corrections. The court denied the motion. The court’s order stated:

On July 11, 2024, the defendant filed a motion that seeks to have the Court involve itself in the administration of orders and the path chosen by DHS. The Court does not believe it has the authority or the desire to do so. The request is denied without hearing.

In this court’s order of January 16, 2025, we questioned whether this appeal may be moot, in light of circuit court docket entries showing that Davis had been transferred to DHS custody. We ordered the parties to file letter briefs. We received such briefs from the State dated January 31, 2025, and from Davis dated February 26, 2025, and April 2, 2025. We now conclude that the appeal is moot.

“An issue is moot when its resolution will have no practical effect on the underlying controversy.” *Portage County v. J.W.K.*, 2019 WI 54, ¶11, 386 Wis. 2d 672, 927 N.W.2d 509 (quoted source omitted). “Appellate courts generally decline to reach moot issues, and if all issues on appeal are moot, the appeal should be dismissed.” *Id.*, ¶12. However, we may choose to address moot issues in “exceptional or compelling circumstances.” *Id.* (quoted source omitted). Exceptional circumstances include: (1) the issue is of great public importance; (2) the issue involves the constitutionality of a statute; (3) the situation arises so often that a definitive decision is essential; (4) the issue is likely to arise again and should be resolved by the court to avoid uncertainty; or (5) the issue is capable and likely of repetition and yet evades review. *Id.*

The State argues that the appeal is moot for the reason above, namely, that Davis is now in DHS custody, and has therefore received the relief that he is asking for in this appeal. In response, Davis does not appear to dispute that he is in DHS custody. Instead, he argues that the appeal is not moot because he seeks an injunction related to an alleged memorandum of agreement between the two departments that resulted in him remaining in prison, despite the placement order. However, Davis does not explain how this memorandum continues to affect him now that he is in DHS custody. Accordingly, we conclude that the appeal is moot. Furthermore, it is questionable whether any injunction issue is even before us in this appeal, as this request was not made in Davis's circuit court motion, and does not appear to be a proper form of relief to be sought by a motion within a criminal case.

As explained above, we may decide the appeal despite its mootness, if it satisfies certain criteria. Davis argues that it satisfies the criteria, but we are not persuaded that this is the exceptional case that calls for addressing the merits of a moot issue.

IT IS ORDERED that this appeal is dismissed as moot.

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

Samuel A. Christensen
Clerk of Court of Appeals