



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

November 13, 2025

To:

Hon. Jeffrey S. Kuglitsch
Circuit Court Judge
Electronic Notice

Abigail Potts
Electronic Notice

Amanda Nelson
Clerk of Circuit Court
Rock County Courthouse
Electronic Notice

Earl DeWayne Phiffer 366323
Kettle Moraine Correctional Inst.
P.O. Box 282
Plymouth, WI 53073-0282

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

2023AP2328-CR	State of Wisconsin v. Earl DeWayne Phiffer (L.C. # 2002CF3370)
2023AP2329-CR	State of Wisconsin v. Earl DeWayne Phiffer (L.C. # 2003CF133)

Before Blanchard, Kloppenburg, 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).

In these consolidated appeals, Earl Phiffer, pro se, challenges an order denying his motion to correct the structure of his sentences. Based on our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. For the following reasons we summarily affirm the order. *See* WIS. STAT. RULE 809.21 (2023-24).¹

In September 2023, through an attorney, Phiffer filed in the circuit court a “Motion to Correct Sentence Structure” in two Rock County criminal cases, Nos. 2002CF3370 and

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

2003CF133. Phiffer contended in this motion that he had been “improperly kept on [extended] supervision for over three years beyond his discharge in 2003 CF 133,” which resulted in improper delays in his discharge from extended supervision in 2002CF3370.

The circuit court held a hearing on the motion on November 17, 2023, at which the court explained its reasons for denying it. This is reflected in the written court order that Phiffer now appeals, which simply states that the motion was denied for the reasons explained at the hearing.

Phiffer also filed a motion in the circuit court requesting a waiver of the court reporter’s fee to produce a transcript of the November 17, 2023 hearing. The court denied the fee waiver request and, in an appeal separate from this one, Phiffer appealed the denial of that request. *See State v. Phiffer*, Nos. 24AP1159-CR and 24AP1160-CR, unpublished op. and order (WI App July 10, 2025). In that separate appeal, this court issued a summary order on July 10, 2025, affirming the circuit court. *Id.* This was based on this court’s determination that the record appeared to reflect that Phiffer did not satisfy the statutory requirement for a fee waiver because he had not submitted the required affidavit of indigency. *Id.* This court also explained in the July 2025 summary order that Phiffer is not entitled to a transcript at no charge, because he was not seeking to waive the fee for a transcript of a hearing addressing the issue of indigency but instead was seeking to waive the fee for a transcript of the hearing on his motion to correct his sentence structure. *Id.*

In this appeal of the circuit court’s denial of Phiffer’s motion to correct his sentence for reasons stated at the November 17, 2023 hearing, we affirm because Phiffer has failed to ensure that a transcript of the November 17, 2023 hearing is a part of the record on appeal. “It is the appellant’s responsibility to ensure completion of the appellate record and when an appellate

record is incomplete in connection with an issue raised by the appellant, we must assume that the missing material supports the [circuit] court’s ruling.” *Gaethke v. Pozder*, 2017 WI App 38, ¶36, 376 Wis. 2d 448, 899 N.W.2d 381 (quoted source omitted); *see also* WIS. STAT. RULE 809.11(4). Further, on appeal, “it is the burden of the appellant to demonstrate that the [circuit] court erred.” *Gaethke*, 376 Wis. 2d 448, ¶36 (alteration in original; quoted source omitted). This burden applies to all litigants, including those without attorneys. *See Waushara County v. Graf*, 166 Wis. 2d 442, 452, 480 N.W.2d 16 (1992) (“Pro se appellants must satisfy all procedural requirements, unless those requirements are waived by the court.”). As the State points out, regarding the issue that Phiffer raises in this appeal, this court is not able to review the full arguments of the parties or review any of the circuit court’s reasoning, and we must assume that any missing material supports the court’s challenged order.

In his reply brief on appeal, Phiffer may mean to reargue issues that were addressed in this court’s July 2025 summary order, but our prior resolution of those issues now binds Phiffer as law of the case. *See State v. Jensen*, 2021 WI 27, ¶13, 396 Wis. 2d 196, 957 N.W.2d 244 (The law of the case doctrine is “a ‘longstanding rule’ that requires courts to adhere to an appellate court’s ruling on a legal issue ‘in all subsequent proceedings in the trial court or on later appeal.’” (quoting *State v. Stuart*, 2003 WI 73, ¶23, 262 Wis. 2d 620, 664 N.W.2d 82)).

Therefore,

IT IS ORDERED that the order is affirmed.

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

Samuel A. Christensen
Clerk of Court of Appeals