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**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](http://www.wicourts.gov)

**DISTRICT III**

December 23, 2025

To:

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Electronic Notice

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Clerk of Circuit Court  
Brown County Courthouse  
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You are hereby notified that the Court has entered the following opinion and order:

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2025AP1219-FT

Joseph Ware v. Brian Hayes (L. C. No. 2024CV1343)

Before Stark, P.J., Hruz, and Gill, 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).**

Joseph Ware appeals a circuit court order that affirmed the revocation of his extended supervision on certiorari review. Pursuant to this court's order of June 19, 2025, and a presubmission conference, the parties have submitted memo briefs. *See* WIS. STAT. RULE 809.17(1).<sup>1</sup> Upon review of those memoranda and the record, we affirm the order of the circuit court.

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

In Brown County Case No. 2013CF659, Ware was sentenced to 18 months of initial confinement followed by 3 years of extended supervision. In Brown County Case No. 2013CF709, Ware received concurrent sentences totaling two years of initial confinement followed by four years of extended supervision. Ware's extended supervision in both cases was revoked in October 2019. He was again released to extended supervision in June 2020. Among other things, Ware's rules of supervision required him to inform his agent of his whereabouts, to maintain absolute sobriety, to obtain permission before possessing a firearm, to follow all state and federal laws, and to refrain from any romantic or sexual relationships without prior agent approval.

Ware absconded from supervision in January 2021 and remained in absconder status until December 14, 2023. He was ultimately taken into custody following an incident involving his wife, Karen, on November 16, 2023.<sup>2</sup> According to police reports, on that date, law enforcement responded to a residence in Appleton to perform a welfare check on Karen, who had told coworkers that she was being held by her husband against her will. The officers made contact with Karen a few blocks from the residence and observed that she was "very fearful," "frantic," and "crying."

The officers escorted Karen to the police station for an interview, where she identified her husband as Ware. She told the officers that Ware was angry with her, was yelling and swearing at her, and had confined her in the bathroom for about an hour. She ultimately "talk[ed] [Ware] down" so that he allowed her to leave the bathroom, but he then punched her

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<sup>2</sup> Pursuant to the policy underlying WIS. STAT. RULE 809.86(4), we refer to Ware's wife using a pseudonym.

left eye, pulled out a firearm, pointed it at her, and told her that he would kill her. The officers observed that Karen had “a significant bruise” and “significant swelling” around her left eye and that “it appeared a blood vessel in her eye [had] burst.”

Karen told the officers that she eventually reached out to a coworker via Zoom chat and reported that her husband was holding her against her will. Shortly thereafter, Karen was able to leave the house on the pretense of taking the dogs outside, and she then encountered the officers while driving away from the residence. During a subsequent search of the residence, officers did not locate Ware, but they did find marijuana, drug paraphernalia, a firearm, and ammunition.

Police reports recount that Ware was ultimately apprehended inside a residence in Green Bay on December 14, 2023. During law enforcement’s attempts to arrest Ware, he hid from the officers, ignored their verbal commands, and barricaded himself underneath a bed. Ware was eventually taken into custody after law enforcement deployed a K-9 unit. Following Ware’s arrest, officers searched the Green Bay residence and found marijuana, a firearm, and ammunition.

Ware subsequently provided a verbal statement to his probation agent. He denied that either of the firearms or the marijuana that law enforcement recovered from the Appleton residence belonged to him. He admitted, however, that he had consumed THC on or about December 11, 2023. He also admitted that he had not reported to his probation agent for two years. Ware’s probation agent presented him with a written summary of his verbal statement, but Ware refused to sign the summary or provide a new statement to his agent.

On January 20, 2024, Karen wrote to Ware’s probation agent and recanted her previous statements to law enforcement regarding Ware’s conduct on November 16, 2023. In the letter,

Karen asserted that she had injured her eye on November 16 after tripping and hitting her face on a metal stair railing. She claimed that she “ran with a story” about Ware hitting her after her coworkers noticed her black eye during her remote work. She alleged that she and Ware had been arguing for days at that point and she had “only slept minimal hours in days.” When she encountered the officers, she “became hysterical” and “things quickly escalated down the wrong path.” Karen further stated that she loved Ware, did not fear him, and wanted him home.

Shortly thereafter, the Department of Corrections (DOC) initiated proceedings to revoke Ware’s extended supervision in Case Nos. 2013CF659 and 2013CF709. The DOC alleged that Ware had violated his rules of supervision by: (1) possessing two firearms; (2) pointing a firearm at Karen; (3) preventing Karen from leaving her residence; (4) threatening to harm and kill Karen; (5) punching Karen; (6) possessing controlled substances; (7) failing to comply with bond conditions in an open case; (8) failing to comply with bond conditions in a second open case; (9) engaging in a romantic relationship with Karen without prior agent approval; (10) absconding from supervision; (11) consuming a controlled substance; (12) failing to comply with directives given by law enforcement during his arrest; and (13) failing to sign the written summary of his verbal statement or provide a new statement to his probation agent.

A probation revocation hearing subsequently took place before an administrative law judge (ALJ). During the hearing, police officers testified about their interactions with Ware and Karen, and one of Karen’s coworkers testified regarding the events that led her to call for a welfare check on Karen. Ware’s probation agent testified that Ware had not received permission to be in a romantic relationship with Karen, that Ware had absconded from supervision for nearly three years, that Ware had admitted to consuming THC, and that Ware refused to sign the summary of his verbal statement or provide an alternative statement upon his agent’s request.

Karen's testimony at the revocation hearing was generally consistent with her recantation letter. She testified that she lied to the officers on November 16, 2023, because she had been arguing with Ware that day and was tired due to a prolonged lack of sleep. She reiterated that her bruised eye was caused by an accidental fall. She also confirmed that she and Ware were still married and that her desire was to remain married and work on their relationship.

The ALJ issued a written decision revoking Ware's extended supervision and ordering him reconfined for a period of two years, one month, and six days. The ALJ concluded that the DOC had established all but 2 of the 13 alleged grounds for revocation.<sup>3</sup> With respect to the allegations regarding the November 16, 2023 incident, the ALJ explained that she was "not persuaded by [Karen's] testimony at the final revocation hearing, nor by her submitted letter to the [DOC]." The ALJ reasoned that Karen's original statements to law enforcement were more credible than her subsequent recantations because the original statements were corroborated by her bruised eye and her frightened and distressed behavior on November 16. The ALJ also reasoned that Karen "admitted that she remains married to ... Ware and is committed to remaining in the relationship," and that Karen's written statement and testimony "were given after she had several months to consider how her initial statement to law enforcement negatively impacted her husband."

Ware appealed the ALJ's decision to Brian Hayes, the Administrator of the Division of Hearings and Appeals (DHA). Ware argued that: (1) the ALJ erred by finding that the DOC had

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<sup>3</sup> The ALJ concluded that the DOC had not established allegation 1, which alleged that Ware possessed two firearms, because the evidence was sufficient to show only that Ware possessed one firearm. In addition, the ALJ concluded that the DOC had not established allegation 6—possession of controlled substances—because there was no evidence that the marijuana police found belonged to Ware. The DOC has not challenged the ALJ's determinations regarding allegations 1 and 6.

established allegations 2, 3, 4, 5, 7, and 8—i.e., the allegations pertaining to the November 16 incident; and (2) although the DOC did establish allegations 9 through 13, those violations “d[id] not warrant revocation” of Ware’s extended supervision, and the seven months that Ware had already spent in custody during the revocation proceedings constituted “an appropriate amount of incarceration for the proven conduct.”

Hayes sustained the ALJ’s factual findings and decision to revoke Ware’s extended supervision. As an initial matter, Hayes noted that Ware did not dispute that the DOC had established allegations 9 through 13. Hayes stated that those violations alone “amply justif[ied] revocation of Ware’s supervision and confinement for the maximum time available in each of his cases.”

With respect to the remaining allegations regarding the November 16 incident, Hayes rejected Ware’s argument “that the ALJ should have found [Karen’s] hearing testimony more credible than her initial on-scene statements to the police.” Hayes instead found that Karen’s initial statements to the police were more credible than her subsequent recantations because the initial statements were “given at a time when there was little time to reflect and revise, which enhances [the statements’] trustworthiness.” Hayes further found that Karen’s initial statements were corroborated by her “frantic demeanor, her physical injury, and the recovery of an actual handgun from the residence.”

While Hayes sustained the ALJ’s factual findings and decision that revocation was warranted, he increased the length of Ware’s reconfinement. Hayes reasoned that there were sufficient aggravating factors to warrant reconfinement for all of the remaining time in each

case—i.e., three years in Case No. 2013CF659, and two years, six months, and four days in Case No. 2013CF709.

Ware subsequently filed a petition for a writ of certiorari in the circuit court. The court issued a written order sustaining Hayes’ decision and denying certiorari relief, and Ware now appeals from that order.

On appeal from certiorari review of a probation revocation decision, “we review the decision of the DHA administrator, not that of the circuit court.” *State ex rel. DOC, Div. of Cmty. Corr. v. Hayes*, 2025 WI 35, ¶18, 417 Wis. 2d 420, 22 N.W.3d 916. Our review is limited to four issues: (1) whether the administrator kept within his jurisdiction; (2) whether the administrator’s decision was according to law; (3) whether the administrator’s action was arbitrary, oppressive or unreasonable and represented his will and not his judgment; and (4) whether the evidence was such that the administrator might reasonably make the order or determination in question. *Id.*

Here, Ware argues that the ALJ—and, by extension, Hayes—made factual findings that were “inconsistent with the evidence presented.”<sup>4</sup> In essence, Ware contends that the ALJ erred

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<sup>4</sup> Ware also asserts, at several points, that the ALJ’s decision was “arbitrary,” “capricious,” and “lacking proper exercise of discretion.” However, aside from arguing that the evidence did not support the ALJ’s factual findings, Ware does not develop any argument that the decision to revoke his extended supervision was “arbitrary, oppressive or unreasonable.” See *State ex rel. DOC, Div. of Cmty. Corr. v. Hayes*, 2025 WI 35, ¶18, 417 Wis. 2d 420, 22 N.W.3d 916. We therefore limit our analysis to the fourth prong of the certiorari standard—i.e., whether the evidence was such that Hayes might reasonably make the order or determination in question. See *id.*

In addition, we note that Ware’s sole argument on appeal is that the evidence at the revocation hearing did not support “the decision to revoke [his] extended supervision.” Ware does not challenge Hayes’ decision to increase the length of his reconfinement term, and we therefore do not address that issue.

by finding Karen’s initial statements to law enforcement regarding the November 16 incident more credible than her subsequent written recantation and her testimony at the revocation hearing.

When assessing the sufficiency of the evidence on certiorari review, our role is not “to weigh the evidence; certiorari is not a de novo review.” *Van Ermen v. DHSS*, 84 Wis. 2d 57, 64, 267 N.W.2d 17 (1978). Instead, our “inquiry is limited to whether there is substantial evidence to support the [administrator’s] decision.” *Id.* “Substantial evidence is evidence that is relevant, credible, probative, and of a quantum upon which a reasonable fact finder could base a conclusion.” *Von Arx v. Schwarz*, 185 Wis. 2d 645, 656, 517 N.W.2d 540 (Ct. App. 1994) (citation omitted). “If substantial evidence supports the [administrator’s] determination, it must be affirmed even though the evidence may support a contrary determination.” *Id.*

We reject Ware’s argument regarding the sufficiency of the evidence for two reasons. First, Ware admitted in his appeal to Hayes that the DOC had proven allegations 9 through 13 during the revocation hearing. Hayes reasonably concluded that those violations alone—which included Ware’s absconding from supervision for nearly three years, consuming a controlled substance, failing to comply with law enforcement directives, and failing to sign his written statement as requested by his probation agent—justified the revocation of Ware’s extended supervision. See *State ex rel. Cutler v. Schmidt*, 73 Wis. 2d 620, 622, 244 N.W.2d 230 (1976) (holding that the petitioner’s failure to report to his probation agent for a period of three days provided “both a rational basis and adequate ground for revocation of his parole” and that “the violation of a condition of probation or parole is a ‘sufficient ground for revocation’” (citation omitted)). These undisputed violations, in and of themselves, provided sufficient evidence to



support the revocation of Ware’s extended supervision. We could affirm the circuit court’s order denying certiorari relief on this basis alone.

Second, however, we also reject Ware’s argument that the evidence was insufficient to establish the remaining allegations regarding the November 16 incident. Hayes credited the officers’ testimony about that incident, including their recollections of Karen’s statements. Hayes then found that Karen’s original statements to the officers were more credible than her subsequent recantations because: (1) Karen’s original statements were made at a time when she had little opportunity to reflect on and revise her account of the events; and (2) the statements were corroborated by evidence regarding Karen’s “frantic demeanor, her physical injury, and the recovery of an actual handgun from the residence.” On certiorari review, this court may not second-guess Hayes’ determination regarding the credibility of Karen’s original statements. *See State ex rel. Messner v. Milwaukee Cnty. Civ. Serv. Comm’n*, 56 Wis. 2d 438, 448, 202 N.W.2d 13 (1972) (explaining that “the credibility of witnesses in an administrative adjudication is within the province of the finders of fact and the agency’s findings on credibility will not be reviewed by a writ of certiorari”).

Karen’s original statements to the officers—along with the officers’ testimony about their observations on November 16, 2023, and the testimony of Karen’s coworker—provided substantial evidence to support Hayes’ determination that the DOC had established the allegations pertaining to the November 16 incident. Contrary to Ware’s suggestion, Hayes did not rely solely on Karen’s original statements when determining that the DOC had proved those allegations. Instead, Hayes reasonably determined that Karen’s original statements were corroborated by other evidence introduced at the revocation hearing. While Ware asserts that the DOC provided “no information to corroborate the testimony of the law enforcement officer[s]

and [Karen’s coworker],” he cites no legal authority in support of the proposition that the DOC was required to do so. *See State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992) (court of appeals need not address undeveloped arguments or arguments unsupported by references to legal authority).

Ultimately, Ware’s arguments on appeal simply ask us to reweigh the evidence presented at the revocation hearing, which we may not do. *See Van Ermen*, 84 Wis. 2d at 64. Because substantial evidence supported Hayes’ decision, we affirm the circuit court’s order upholding that decision and denying certiorari relief.

Upon the foregoing,

IT IS ORDERED that the order is 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*