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DISTRICT II

March 4, 2026

To:

Hon. Eugene A. Gasiorkiewicz
Circuit Court Judge
Electronic Notice

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Clerk of Circuit Court
Racine County Courthouse
Electronic Notice

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Ashley C. Gandy Jr. #424899
Winnebago Correctional Center
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You are hereby notified that the Court has entered the following opinion and order:

2025AP681

Ashley C. Gandy, Jr. v. Brian Hayes (L.C. #2022CV1066)

Before Neubauer, P.J., Gundrum, and Grogan, 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).

After the Division of Hearing and Appeals (DHA) sustained the Administrative Law Judge's (ALJ) decision revoking Ashley C. Gandy, Jr.'s extended supervision and probation, Gandy filed a petition for a writ of certiorari. The circuit court denied the petition and subsequently denied Gandy's motion to reconsider that decision, concluding the motion merely rehashed previously raised issues and did not identify newly discovered evidence. Gandy now appeals from the court's order denying his motion for reconsideration. 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 (2023-24).¹ Because Gandy did not raise any new issues in his motion for reconsideration, we lack jurisdiction. Accordingly, we dismiss the appeal.

Gandy was convicted of a number of crimes, including several firearm and drug offenses, and in July 2020, he absconded from his extended supervision and probation, which were components of the sentences imposed for those charges. When he was located and arrested in December 2020, he was in possession of drugs and a firearm. Gandy resisted officers during the booking process and physically assaulted one officer, resulting in injuries. That new conduct was the basis for charges in Milwaukee County Circuit Case No. 21CF7.

The Department of Corrections (DOC) initiated revocation proceedings against Gandy on twelve allegations related to his 2020 conduct. The DOC suspended revocation proceedings on January 21, 2021, while Gandy's competency was being evaluated as part of the Milwaukee County case. Gandy was determined to be incompetent but was eventually restored to competency, and the DOC reinstated the revocation proceedings. An ALJ conducted a hearing to consider the DOC's revocation request but suspended proceedings after concluding there again was reason to question Gandy's competency. In April 2022, Gandy appeared at a competency hearing and agreed with the competency report indicating he was competent to proceed. The ALJ held a revocation hearing in June 2022.

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

After the hearing, the ALJ concluded the DOC had proven nine of the twelve allegations, and he issued a written decision ordering Gandy's extended supervision and probation revoked. Gandy appealed to Brian Hayes, the DHA administrator. Hayes sustained the ALJ's decision.

Gandy filed a pro se petition for a writ of certiorari requesting the circuit court vacate the DHA's decision revoking his extended supervision and probation. His petition included, *inter alia*,² the following claims: (1) the DOC's suspension of revocation proceedings due to concerns about Gandy's competency and the subsequent reinitiation of those proceedings violated WIS. STAT. § 971.13(1), the Wisconsin Administrative Code, and his constitutional due process rights; (2) because the DOC withdrew its hold pending Gandy's competency determination, it was thereafter barred from reinitiating revocation proceedings once he was deemed competent and, therefore his subsequent hold for revocation proceedings constituted false imprisonment and violated the Double Jeopardy Clause; (3) the ALJ's "time" credit calculations were incorrect; and (4) he was unlawfully revoked on counts previously discharged. Concluding that the DHA's decision was within the DHA's jurisdiction, reasonably made and supported by substantial evidence, the court entered a written order denying Gandy's petition and dismissing the case. Gandy did not appeal from the court's order.

More than a year after the circuit court entered its order, Gandy filed a pro se motion for reconsideration. Concluding that Gandy had not identified any newly discovered evidence and "every claimed 'manifest error of law' [was] a regurgitation of arguments made ... before the ALJ[,] ... reiterated before Administrator Hayes and then again before [the circuit court]," the

² Gandy also claimed that the ALJ denied him his right to counsel and erroneously admitted evidence at the hearing.

court entered a written decision denying the motion. Gandy then filed a pro se notice of appeal, and we issued an order directing the parties to address as the first issue in their appellate briefs whether this court has jurisdiction to review the order denying Gandy's reconsideration motion.

Whether this court has jurisdiction to hear an appeal is a question of law we consider independently. *State v. Scaccio*, 2000 WI App 265, ¶4, 240 Wis. 2d 95, 622 N.W.2d 449. "No right of appeal exists from an order denying a motion to reconsider which presents the same issues as those determined in the order or judgment sought to be reconsidered." *Silverton Enters., Inc. v. General Cas. Co. of Wis.*, 143 Wis. 2d 661, 665, 422 N.W.2d 154 (Ct. App. 1988). For this court to have jurisdiction over an order denying a motion for reconsideration, the motion "must present issues other than those determined by the order or judgment for which review is requested." *Ver Hagen v. Gibbons*, 55 Wis. 2d 21, 26, 197 N.W.2d 752 (1972).

Gandy's reconsideration motion asserted the following claims: (1) the DOC violated Gandy's due process rights, the Wisconsin Administrative Code and WIS. STAT. § 971.13 by suspending and then reinitiating revocation proceedings against him; (2) because the DOC withdrew its hold pending Gandy's competency determination, it falsely imprisoned him and violated the Double Jeopardy Clause when it refiled revocation proceedings against him despite him not committing subsequent violations of his extended supervision and probation; (3) the ALJ's "custody" credit calculations are incorrect; and (4) he was unlawfully revoked for Racine County Circuit Case No. 2017CF474 because that case expired before the revocation hold was reinstated.

All of these claims were raised in Gandy’s writ petition, argued in briefing, and addressed in the circuit court’s order denying his petition.³ Gandy failed to appeal that order and cannot now restart the clock by appealing from the denial of his motion to reconsider that order. *See La Crosse Tr. Co. v. Bluske*, 99 Wis. 2d 427, 429, 299 N.W.2d 302 (Ct. App. 1980) (“[T]he policy behind the rule [barring appeal of a reconsideration motion which does not raise new issues] is to prevent a party from extending the time to appeal by filing a motion for reconsideration.”). Because Gandy’s motion for reconsideration of the order denying his writ petition did not raise any new issues, we conclude we are without jurisdiction to hear this appeal.

Therefore,

IT IS ORDERED that the order of the circuit court is summarily dismissed for lack of jurisdiction. *See* WIS. STAT. RULE 809.21.

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

Samuel A. Christensen
Clerk of Court of Appeals

³ Gandy asserts that his motion for reconsideration included a new issue relating to sentence credit: “The argument of time credit is not for the period between Jan. 21, 2021 - Oct. 14, 2021 but for [Racine County Circuit Case No.] 17CF474 ct:1 which expired during this period that the hold was off and No time credit was given or entitled.” This is not a new issue as Gandy referenced the March 20, 2021 discharge in Case No. 17CF474 in his briefs filed in support of his petition for a writ of certiorari, and the circuit court concluded that “[t]he [ALJ’s] credit calculations were correct.” Even if it was a new issue, it was one Gandy was aware of when he filed his writ and, thus, it should have been raised in his petition for a writ of certiorari. *See State ex rel. Macemon v. Christie*, 216 Wis. 2d 337, 343, 576 N.W.2d 84 (Ct. App. 1998) (applying *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 517 N.W.2d 157 (1994), to writs of certiorari and concluding “[a]n aggrieved defendant should raise all claims of which he or she is aware in the original writ of certiorari proceeding ...”).