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DISTRICT III

June 9, 2026

To:

Hon. Rick T. Cveykus
Circuit Court Judge
Electronic Notice

Jacob J. Wittwer
Electronic Notice

Kelly Schremp
Clerk of Circuit Court
Marathon County Courthouse
Electronic Notice

Paul G. Weaver 561368
Racine Correctional Institution
2019 Wisconsin St.
Sturtevant, WI 53177-1829

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

2024AP760-CR	State of Wisconsin v. Paul G. Weaver
2024AP761-CR	(L. C. Nos. 2008CF307, 2008CF310)

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).

Paul Weaver appeals from an order that denied his motions for sentence modification and sentence credit on three felony sentences entered on one of two cases that were handled jointly in the circuit court.¹ Weaver contends that: (1) the commutation of two illegally imposed sentences in one of the cases also requires the commutation of three concurrent sentences imposed in the other case; and (2) he is entitled to sentence credit on one of the cases for time he spent in

¹ Although Weaver filed circuit court motions and appeals in both cases, and the appeals have been consolidated, the relief Weaver is seeking applies only to Marathon County Case No. 2008CF307, which is the subject of Appeal No. 2024AP760-CR.

pretrial custody in connection with the other case. Based upon our review of the briefs and record, we conclude at conference that these cases are appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2023-24).² We reject both of Weaver's arguments and affirm the postconviction order.

In April 2008, the State charged Weaver in Marathon County Case No. 2008CF307 (the first case) with twelve felony counts related to the repeated sexual assault of a child. Shortly thereafter, the State charged Weaver in Marathon County Case No. 2008CF310 (the second case) with five additional counts related to the repeated sexual assault of a different child, which had occurred in the 1980s and 1990s prior to the enactment of Truth in Sentencing. Weaver was released on a \$100,000 signature bond in the first case, but he was unable to post the \$250,000 cash bond set in the second case.

Pursuant to a global plea agreement, Weaver pled no contest in the first case to two Class B felonies of repeated sexual assault of the same child and one Class C felony of incest, and he pled no contest in the second case to two Class B felonies of first-degree sexual assault of a child and three Class C felonies of second-degree sexual assault of a child. In July 2010, the circuit court sentenced Weaver to concurrent bifurcated sentences of 25 years' initial confinement followed by 10 years' extended supervision on each of the counts in the first case, and to concurrent indeterminate sentences of 35 years on each of the Class B felonies and 10 years on each of the Class C felonies in the second case. Although the bifurcated and indeterminate sentences were structured differently, the court observed that the sentences in the

² All references to the Wisconsin Statutes are to the 2023-24 version unless otherwise noted.

second case could “become equivalent” to the sentences in the first case if Weaver were to earn good time on them. The court granted 788 days of sentence credit for the second case on which Weaver had been held in pretrial custody after failing to post cash bond.

In November 2013, the circuit court amended the amount of sentence credit due on the second case to 810 days. In March 2016, the court commuted the indeterminate sentences on the Class B felonies in the second case from 35 to 20 years after being informed that the original sentences exceeded the maximum penalty that had been in effect at the time the offenses were committed. *See* WIS. STAT. §§ 939.50(3)(b) (1987-88), 973.13. The court explicitly noted that the error did not impact the sentences in the first case.

In 2023, Weaver filed two pro se motions that are the subject of this appeal. In the first motion, Weaver asked the circuit court to reduce his 35-year bifurcated sentences in the first case to “time served.” Weaver argued that any imprisonment in excess of 20 years on those counts was “illegal” because the court had intended his sentences in both cases to be “equivalent.” In the second motion, Weaver asked the court to award him sentence credit in the first case for the time he remained on a signature bond. The court denied both motions in a single order, without conducting a hearing.

In order to obtain a hearing on a postconviction motion, a defendant must allege material facts sufficient to warrant the relief sought. *State v. Allen*, 2004 WI 106, ¶¶9, 36, 274 Wis. 2d 568, 682 N.W.2d 433. No hearing is required when the defendant presents only conclusory allegations or when the record conclusively demonstrates that he or she is not entitled to relief. *Nelson v. State*, 54 Wis. 2d 489, 497-98, 195 N.W.2d 629 (1972). We conclude that the record

here conclusively demonstrates that Weaver is not entitled to relief and that the circuit court therefore properly denied his motions without a hearing.

First, the bifurcated sentences imposed in the first case are not illegal. The statutes provide maximum terms of 40 years' initial confinement followed by 20 years' extended supervision for a Class B felony and 25 years' initial confinement followed by 15 years' extended supervision for a Class C felony. WIS. STAT. § 973.01(2)(b)1., (b)3., (d)1., (d)2. Furthermore, the circuit court's observation at the original sentencing hearing that the sentences in the second case *could* become equivalent to the sentences in the first case if Weaver earned good time did not evince an intent that Weaver *must* serve the same amount of time for each case. Rather, the court plainly intended that Weaver serve at least 25 years of initial confinement for each of the sexual assaults involving the victim in the first case regardless of how much time he served on the second case, as the court confirmed when it commuted the excessive sentences in the second case.

Second, Weaver is not entitled to sentence credit on the first case. WISCONSIN STAT. § 973.155(1)(a) provides that an "offender shall be given credit toward the service of his or her sentence for all days spent in custody in connection with the course of conduct for which [the] sentence was imposed." Weaver was held in custody on his second case because he could not post the cash bond in that case. However, that case did not arise out of the same course of conduct as the first case because it involved a different victim and a different series of assaults. As to the first case, a defendant who has been released on a signature bond is not in custody. *See State v. Beiersdorf*, 208 Wis. 2d 492, 498-99, 561 N.W.2d 749 (Ct. App. 1997). Therefore, Weaver was not entitled to sentence credit on the first case under WIS. STAT. § 973.155.

Weaver makes several additional procedural complaints about how his motions were handled in the circuit court. However, none of those alleged errors change the fact that the allegations in his motions failed to provide grounds for the relief he was seeking.

Upon the foregoing,

IT IS ORDERED that the postconviction order is affirmed. 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