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DISTRICT IV

October 1, 2026

To:

Hon. Ramona A. Gonzalez
Circuit Court Judge
Electronic Notice

John Blimling
Electronic Notice

Tammy Pedretti
Clerk of Circuit Court
La Crosse County Courthouse
Electronic Notice

Catherine Malchow
Electronic Notice

Antonio P. Shaw Jr.
10839 S. Emerald Ave.
Chicago, IL 60628

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

2025AP1432-CRNM State of Wisconsin v. Antonio P. Shaw, Jr. (L.C. # 2017CF797)

Before Graham, P.J., Blanchard, and Ziegler, 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).

Attorney Catherine Malchow, as appointed counsel for Antonio Shaw, filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2023-24)¹ and *Anders v. California*, 386 U.S. 738 (1967). Counsel provided Shaw with a copy of the report, and both counsel and this court advised him of his right to file a response. Shaw has not responded. We conclude that this case is appropriate for summary disposition. See WIS. STAT. RULE 809.21. After our independent

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

review of the record, we conclude that there is no arguable merit to any issue that could be raised on appeal.

This appeal relates only to sentence credit. By way of background, in 2019, Shaw was convicted of two counts, count one and count three, in this criminal case. On count one, the circuit court imposed and stayed a prison sentence of seven years, and it placed Shaw on probation for three years. On count three, the court imposed a one-year jail sentence, to be served concurrently with count one. In practical effect, then, Shaw would spend the first year both on probation and serving a jail sentence, with two years of probation to follow, assuming that his probation was not revoked at some point in those three years.

Shaw's probation was revoked in September 2022, and he began serving the imposed and stayed prison sentence of seven years. In May 2024, Shaw moved to amend the judgment of conviction to give him credit against the prison sentence for the time he spent serving the jail sentence, in 2019 and 2020. The circuit court denied the motion.

As a threshold matter, we observe that it is not entirely clear what the procedural basis was for Shaw's motion. Shaw sought to amend the judgment of conviction, but he was not moving to correct any error or omission in the judgment of conviction that was based on the original sentencing. That is because, at the time the court entered that judgment, Shaw had not yet served the jail sentence, and the court could not have given him credit for serving that jail sentence. Nor was Shaw moving to correct an error or omission as to presentence credit that should have been given in a new judgment entered after his probation was revoked. That is because no sentencing after revocation occurred in this case; the prison sentence had already

been imposed and stayed as part of the original judgment, and after his probation was revoked, Shaw began serving the prison term without further court action.

It appears that, rather than seeking to amend an error or omission in a court judgment, Shaw was actually seeking review of the sentence credit decision that was made administratively during the probation revocation process, and specifically, a modification of his mandatory release date as determined by the Department of Corrections. Although this was not how his motion was presented, no such objection was made during the circuit court proceedings. Having made these observations about the procedural basis for Shaw's motion, we proceed to address the arguments that were made during the circuit court proceedings, which are the subject of counsel's no merit report.

Shaw's argument in the circuit court was founded on language in the original judgment of conviction for the jail sentence on count three. The judgment stated that the jail sentence would be "[c]oncurrent with *the prison sentence* on Ct 1." (Emphasis added.) As argued by Shaw during the motion hearing, the language of the judgment shows that the jail sentence was not meant to be served concurrently with the probation term on count one, and instead could become concurrent only when that probation was revoked and he began to serve the prison sentence. Therefore, he argued, his time serving the jail sentence should, in effect, also be counted as time serving the prison sentence. The circuit court determined that the wording in the judgment was "inaccurate"—the judgment should have stated that the jail sentence on count three would be concurrent with count one, and should not have been limited to "the prison sentence" on that count. The court denied Shaw's motion for sentence credit.

Shaw's argument has no arguable merit because, regardless of how the judgment phrased the concurrent nature of the sentences, the jail and prison terms were not, in fact, served concurrently in time. As can be seen from the dates above, the jail sentence was already served and over in 2020, more than two years before the prison sentence began. The jail sentence that Shaw served on count three ran concurrently with the *probation* time on count one, not with the prison sentence. Nor was the jail sentence on count three a form of presentence custody for purposes of the prison time on count one. Instead, it was merely time spent serving a different and non-concurrent sentence, which is not a basis for sentence credit, as explained in the no-merit report.

Our review of the record discloses no other potential issues for appeal.

Therefore,

IT IS ORDERED that the order denying sentence credit is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Malchow is relieved of further representation of Shaw in this matter. *See* WIS. STAT. RULE 809.32(3).

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

Samuel A. Christensen
Clerk of Court of Appeals