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July 18, 2018

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

2017AP517

State of Wisconsin v. Sean Beau Oldham (L.C. # 2015CF1223)

Before Brennan, Brash and Dugan, 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).

Sean Beau Oldham, *pro se*, appeals from a decision of the circuit court that declined to return bail money that had been forfeited in 2015. 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 (2015-16).¹ We dismiss the appeal for lack of jurisdiction.

In March 2015, Oldham’s cousin, Willie Dorice Ford, Jr., was charged with possession with intent to deliver between ten and fifty grams of heroin and possession of a firearm by a felon, both as a repeater. Oldham posted Ford’s \$7500 cash bail. One condition of the release was that Ford “shall not commit any crime.”² In May 2015, Ford was arrested on a warrant stemming from charges in a different case. While searching Ford, police found eleven grams of heroin between his buttocks. The State asked the circuit court in this case to forfeit the \$7500 and to increase his bail. The circuit court, by the Honorable Clare L. Fiorenza, ordered the \$7500 forfeited in July 2015. On August 21, 2015, the circuit court granted the State’s motion to dismiss the charges in this case.

In August 2016, Ford filed a motion for the return of the bail money. The circuit court, by the Honorable David C. Swanson, dismissed the motion, stating that because Ford was not the one who posted the money, he had no standing to seek its return.

In September 2016, Oldham sent a letter to the circuit court. He complained that he had not received notice of the bail forfeiture and asked for a hearing on returning the bail money to

¹ All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

² According to Consolidated Court Automation Programs (CCAP) entries, the circuit court commissioner also ordered Ford “not to be in possession of any illegal drugs during the pendency of this case.” CCAP is a case management system that provides online access to reports of circuit court activity. *See State v. Bonds*, 2006 WI 83, ¶6, 292 Wis. 2d 344, 717 N.W.2d 133.

him,³ noting that the charges against Ford had been dismissed. The circuit court, by the Honorable Jeffrey A. Wagner, held three hearings on Oldham's request. At the final hearing on February 10, 2017, the court concluded that the bail forfeiture was validly ordered because of the heroin found on Ford when he was arrested on the warrant. The court also noted that the bail forfeiture preceded the dismissal of the charges, so the bail would remain forfeited. Oldham appeals.

On appeal, the State's first argument is that this court lacks jurisdiction because the circuit court's determination was never reduced to a written order. Whether this court has appellate jurisdiction is a question of law that we review *de novo*. See *State v. Scaccio*, 2000 WI App 265, ¶4, 240 Wis. 2d 95, 622 N.W.2d 449.

This court typically performs a "jurisdiction check" when the record on appeal is transmitted to this court. See *State ex rel. Teaching Assistant Ass'n v. University of Wis.-Madison*, 96 Wis. 2d 492, 495, 292 N.W.2d 657 (Ct. App. 1980) (appellate court has duty to inquire as to its own jurisdiction). Upon our initial review of the appellate record, it appeared that a February 15, 2017 judgment was sufficient to confer appellate jurisdiction on this court: although the document indicated a money judgment had been entered against Ford, not Oldham, it nevertheless appeared to be a document intended to memorialize the circuit court's ruling, particularly given its entry shortly after the final hearing on Oldham's letter. See *Wambolt v. West Bend Mut. Ins. Co.*, 2007 WI 35, ¶4, 299 Wis. 2d 723, 728 N.W.2d 670 ("[A]ppellate courts should liberally construe ambiguities to preserve the right of appeal[.]"). However, the

³ Under WIS. STAT. § 969.13(2), an order declaring bail forfeited "may be set aside upon such conditions as the court imposes if it appears that justice does not require the enforcement of the forfeiture."

State has pointed out that, according to Consolidated Court Automation Programs (CCAP) entries, the February 15 judgment was withdrawn on March 17, 2017.⁴ The withdrawn February judgment therefore cannot be the basis for this court’s jurisdiction, and there are no other documents in the record sufficient to confer appellate jurisdiction on this court.

In his reply brief, Oldham notes that “[a] judgment is granted when given orally in open court on the record.” *See* WIS. STAT. § 806.06(1)(d). He thus contends that the circuit court decision “does not have to be reduced to a written order.” Oldham is mistaken.

Our jurisdiction for appeals as a matter of right is limited to final judgments and orders. *See* WIS. STAT. § 808.03(1). Final judgments or orders must be in writing. *See Ramsthal Advert. Agency v. Energy Miser, Inc.*, 90 Wis. 2d 74, 75, 279 N.W.2d 491 (Ct. App. 1979) (“An order, to be appealable, must be in writing and filed.”). Further, a final judgment or final order must be entered in accordance with either WIS. STAT. § 806.06(1)(b) or WIS. STAT. § 807.11(2). *See* WIS. STAT. § 808.03(1)(a). Sections 806.06(1)(b) and 807.11(2) both state that the judgment or order “is entered when it is filed in the office of the clerk of court.” An oral decision cannot be filed.

As there is no final written judgment or order regarding Oldham’s request for the return of bond, this court lacks jurisdiction to reach the merits of the appeal.

Therefore,

⁴ It appears that the February 15, 2017 judgment was generated because the clerk of the circuit court had indicated that a *signature* bond had been ordered revoked; the CCAP entry vacating the judgment states, “Judgement done in error.... It should not have been a signature bond.”

IT IS ORDERED that appeal No. 2017AP517 is dismissed for lack of jurisdiction.

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

Sheila T. Reiff
Clerk of Court of Appeals