

**COURT OF APPEALS
DECISION
DATED AND FILED**

July 22, 2004

Cornelia G. Clark
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 03-1020
STATE OF WISCONSIN**

Cir. Ct. No. 03CV001014

**IN COURT OF APPEALS
DISTRICT IV**

STATE OF WISCONSIN EX REL. MAURICE GREER,

PETITIONER-APPELLANT,

v.

**GERALD BERGE, WARDEN, WISCONSIN SECURE PROGRAM
FACILITY, AND BILLY J. WORKS, SHERIFF, CAMANCHE
COUNTY,**

RESPONDENTS-RESPONDENTS.

APPEAL from an order of the circuit court for Dane County:
MICHAEL N. NOWAKOWSKI, Judge. *Affirmed.*

Before Deininger, P.J., Dykman and Lundsten, JJ.

¶1 PER CURIAM. Maurice Greer appeals an order dismissing his certiorari petition. The issues relate to the timeliness of the petition and exhaustion of remedies. We affirm.

¶2 Greer's petition sought review of, among other things, an October 1999 prison discipline decision at a facility in Texas. The circuit court rejected this claim because the petition was filed in 2003, more than six months after the decision in Texas. Greer argues that this time limit should not apply in this case because the Administrative Confinement Review Committee (ACRC) continues to rely on that disciplinary decision in its decisions to place Greer in confinement. However, he cites no legal authority in support of that argument, and we are not aware of any authority that would support it. Greer also argues that, because he was an out-of-state prisoner in Texas at the time of the disciplinary decision, there was no time limit for him to bring a certiorari action. While it is true that the forty-five-day time limit provided in WIS. STAT. § 893.735 (2001-02)¹ did not apply, the six-month common law limit still applied. See *State ex rel. Frohwirth v. Wisconsin Parole Comm'n*, 2000 WI App 139, ¶5, 237 Wis. 2d 627, 614 N.W.2d 541.

¶3 Greer's certiorari petition also sought review of an ACRC decision. The circuit court dismissed the claim because at the time of that decision Greer was incarcerated in Wisconsin, and the certiorari petition was filed more than forty-five days after the decision he sought to have reviewed. On appeal, Greer appears to be arguing that his time to petition for certiorari should be tolled while he pursued a second inmate complaint from the same ACRC decision. However, he offers no published authority that supports such a tolling rule under these circumstances.

¹ All references to the Wisconsin Statutes are to the 2001-02 version unless otherwise noted.

¶4 Finally, Greer argues that the court erred by denying his request to amend the certiorari petition to include review of another ACRC decision, issued in January 2003. The circuit court properly rejected this request on the ground that Greer had not yet exhausted his administrative remedies for that decision through the inmate complaint system, as required by WIS. STAT. § 801.02(7)(b). Greer's motion to amend the petition included the result of his appeal to the warden, but not through the inmate complaint system.

By the Court.—Order affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5.

