OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS
110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688
Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT I

February 17, 2026

To:

Hon. Laura Crivello
Circuit Court Judge
Electronic Notice

Anna Hodges
Clerk of Circuit Court
Milwaukee County Safety Building
Electronic Notice

Kathleen Henry
Electronic Notice

Christine A. Remington
Electronic Notice

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

2025AP321-CR	State of Wisconsin v. Niya L. Russell (L.C. # 2020CF598)
2025AP322-CR	State of Wisconsin v. Niya L. Russell (L.C. # 2022CF4191)
2025AP323-CR	State of Wisconsin v. Niya L. Russell (L.C. # 2023CM709)

Before White, C.J., Colón, P.J., and Donald, J.

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).

In these consolidated appeals, Niya L. Russell appeals three judgments of conviction, entered on her guilty pleas. She also appeals the order denying her motion for postconviction relief. 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] We affirm.

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

Russell committed several crimes over a period of almost three years. In Milwaukee County Circuit Court Case No. 2020CF598, she stole a vehicle and led police on a high-speed chase that covered almost 40 miles. A minor child was in the car with Russell. In Milwaukee County Circuit Court Case No. 2022CF4191, she went to the home of an acquaintance and fired shots. While in jail, Russell attempted to solicit her family members to contact the victim of the shooting incident and encourage her to recant her statement to law enforcement. This led the State to charge Russell with intimidation of a victim in Milwaukee County Circuit Court Case No. 2023CM709.

Russell resolved the three cases in a consolidated plea hearing. She entered guilty pleas to second-degree recklessly endangering safety, second-degree recklessly endangering safety with use of a dangerous weapon, felon in possession of a firearm, and intimidation of a victim.

During the sentencing hearing, Russell apologized to the community and started to read a letter she had prepared. However, she ultimately submitted the letter to the circuit court without reading it aloud because she was nervous.

In the letter, Russell apologized and explained that she had been abusing drugs and alcohol. She wrote that while she was in jail, she participated in the groups that were available to improve herself. In the letter, Russell informed the court that she would seek further treatment for her addiction. Russell also wrote that she thanked God every day for opening her eyes so that she could see that prior abuse and addiction had turned her into someone she despised.

The circuit court, in its sentencing remarks, discussed the seriousness of the crimes and Russell's lengthy criminal record. The court knew about Russell's struggle with addiction based

on her letter, but concluded that did not excuse her actions. The circuit court imposed sentences totaling 10 years and 162 days of initial confinement and 10 years of extended supervision. The court ordered that Russell was eligible for the Challenge Incarceration and Substance Abuse Programs after she served three-fourths of her total sentences in Case Nos. 2020CF598 and 2022CF4191.

Russell filed a postconviction motion seeking sentence modification based on a new factor. The alleged new factor Russell claimed was unknowingly overlooked was that "while incarcerated before sentencing, [she] was attending all available groups offered at the Correctional Institution, to make herself a better person." She continued: "In addition, she is now thanking God every day for opening her eyes and allowing her to see that her drug abuse and addiction turned her into someone she now despises." The circuit court denied the motion, and this appeal follows.

Russell renews her claim that sentence modification is warranted based on a new factor. A new factor is "a fact or set of facts" that is "highly relevant to the imposition of sentence, but not known to the trial judge at the time of original sentencing, either because it was not then in existence or because, even though it was then in existence, it was unknowingly overlooked by all of the parties." ***State v. Harbor***, 2011 WI 28, ¶40, 333 Wis. 2d 53, 797 N.W.2d 828 (citation omitted). Whether a new factor exists is a question of law that this court reviews independently. ***Id.***, ¶36.

Russell continues to assert that the fact that she was already improving herself before sentencing and thanking God daily warrants sentence modification. Her claim fails for two reasons. The alleged new factor is neither new nor highly relevant to her sentence.

First, the circuit court did not unknowingly overlook this information when it imposed the sentences. As noted above, this information was in a letter written by Russell. A letter that the court reviewed prior to sentencing. A "new factor" argument cannot be premised on a claim that the court did not adequately consider certain known facts during the sentencing hearing. A new factor exists when a material fact comes into existence after sentencing or is unknowingly overlooked by all of the parties. *See* ***id.***, ¶40. Neither of these situations apply here. Rather, Russell's claim hinges on her contention that while the court acknowledged the letter, "it did not discuss it." Her argument is, in essence, that the circuit court should have characterized or weighed the facts differently. This is not a cognizable new factor argument.

Moreover, Russell has not shown that her efforts to improve herself prior to sentencing and her daily thanking of God were highly relevant to her sentences. The circuit court's focus at sentencing was primarily on the need to protect the public and on the serious nature of the crimes. The court found that Russell's crimes were as "serious as it gets. It's guns. It's gun violence. It's reckless driving. It's all of it. And then throw on just the icing on the cake which is the intimidation of a witness."

The circuit court properly denied Russell's motion for sentence modification.

Therefore,

IT IS ORDERED that the judgments and order are summarily affirmed. *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