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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  
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**DISTRICT I**

March 24, 2026

To:

Hon. Jeffrey A. Wagner  
Circuit Court Judge  
Electronic Notice

Kathleen Henry  
Electronic Notice

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

Lisa E.F. Kumfer  
Electronic Notice

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

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2024AP1734-CR

State of Wisconsin v. Jaruthh Marsceedashon Gathings  
(L.C. # 2022CF1097)

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).**

Jaruthh Marsceedashon Gathings appeals from a judgment, entered on his guilty pleas, convicting him of felony murder and possession of a firearm by a felon. Gathings also appeals from an order that denied his postconviction motion for sentence modification. 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).<sup>1</sup> The judgment and order are summarily affirmed.

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2023-24 version.

According to the criminal complaint, victim M.L.G. was waiting in the driver's seat of a gray Jeep parked at a gas pump. A white car approached and stopped nearby. Gathings exited the white car and got into the front passenger seat of the Jeep. A few moments later, another person from the white car approached the Jeep from the rear and rushed the driver's door. The Jeep quickly accelerated away, entered the street, and crashed into a utility pole. Responding to the scene of the crash, police found an unresponsive M.L.G. with multiple gunshot wounds to the chest. M.L.G. was transported to the hospital and pronounced deceased. The medical examiner identified gunshot wounds from ten different bullets.

A witness who had been behind the Jeep when it crashed told police that he saw a person bleeding from the face, exit the front passenger side of the Jeep and drag himself across the road before entering a red car. Approximately one hour after the crash, Gathings presented at the hospital with facial injuries and a broken femur. Detectives also learned that Gathings was on supervision and wearing a Department of Corrections monitor, as was M.L.G. Data from the monitors placed Gathings and M.L.G. together both before and at the time of the crash. The data also showed M.L.G. remaining motionless at the crash site until emergency personnel arrived, and it showed Gathings crossing the street and, later, arriving at the hospital.

Gathings was charged with one count of first-degree intentional homicide and one count of possession of a firearm by a felon. He agreed to resolve the charges with guilty pleas; in exchange, the State amended the homicide charge to felony murder.<sup>2</sup> Both sides were free to

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<sup>2</sup> The meeting with M.L.G. at the gas station had evidently been set up as a drug transaction; the predicate crime for the felony murder charge was attempted armed robbery.

argue the length of the sentence, though the State agreed to stand silent on whether the sentence in this case should be concurrent with or consecutive to an anticipated revocation sentence.

At sentencing, the State argued for the maximum sentence of 35 years of imprisonment for the felony murder and a concurrent maximum 10 years of imprisonment for possession of a firearm. Defense counsel recommended concurrent sentences totaling 25 years of imprisonment, concurrent with Gathings' revocation sentence. The sentencing court<sup>3</sup> ultimately imposed the maximum sentences for each charge, running them concurrent to each other and consecutive to the revocation sentence. Gathings filed a postconviction motion for sentence modification, arguing the sentences were unduly harsh. The circuit court denied the motion. Gathings appeals.

Whether a sentence was unduly harsh is essentially a question of whether the circuit court properly exercised its discretion when setting the sentence. *See State v. Gallion*, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197. A circuit court's conclusion that a sentence was not unduly harsh is also an exercise of discretion. *See State v. Grindemann*, 2002 WI App 106, ¶30, 255 Wis. 2d 632, 648 N.W.2d 507. "An erroneous exercise of discretion will be found only if the sentence is excessive, unusual and so disproportionate to the offense committed as to shock public sentiment and violate the judgment of reasonable people concerning what is right and proper under the circumstances." *State v. Schreiber*, 2002 WI App 75, ¶7, 251 Wis. 2d 690, 642 N.W.2d 621. However, "[t]he sentencing decisions of the circuit court are generally afforded a strong presumption of reasonability because the circuit court is best suited to consider the

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<sup>3</sup> The Honorable Ellen R. Brostrom imposed the original sentence and will be referred to as the sentencing court. The Honorable Jeffrey A. Wagner reviewed the postconviction motion and will be referred to as the circuit court.

relevant factors and demeanor of the convicted defendant.” *State v. Taylor*, 2006 WI 22, ¶18, 289 Wis. 2d 34, 710 N.W.2d 466 (citation omitted).

To show that his sentence was unduly harsh because it was excessive, unusual or disproportionate to the offense, Gathings must show “that the record contains an unreasonable or unjustifiable basis for the sentence.” *See Schreiber*, 251 Wis. 2d 690, ¶9. “Generally, sentences within the limits of the maximum sentence are not disproportionate to the offense committed and are not unduly harsh or unconscionable.” *State v. Richard G.B.*, 2003 WI App 13, ¶20, 259 Wis. 2d 730, 656 N.W.2d 469. The test on appeal is only whether discretion was exercised, not whether this court would have imposed the same sentence. *See State v. Odom*, 2006 WI App 145, ¶8, 294 Wis. 2d 844, 720 N.W.2d 695.

The record reflects a proper exercise of sentencing discretion. The sentencing court concluded that Gathings’ crimes were “very grave,” describing the crimes as “shocking,” with an “unfathomable ... level of violence.” *See id.*, ¶7 (stating that gravity of the offense is one of the primary sentencing factors). The sentencing court commented that there were “not a lot of strengths” in Gathings’ character, noting that the presentence investigation report described Gathings’ “longstanding history of antisocial behavior,” “incredible history of substance abuse,” and a “long continued history with revocations.” *See id.* (stating that character of the offender is one of the primary sentencing factors). The court also stated that it was “not a positive for Mr. Gathings’ character” that he made statements to the presentence investigation author denying responsibility for the murder, even if he retracted those statements prior to sentencing. *See id.* (identifying defendant’s remorse and repentance as a valid sentencing factor). Ultimately, the court felt that it was “basically ... left with keeping the community safe by [Gathings’] removal, and then of course ... some rehabilitation” as its objective. *See State v. Ziegler*, 2006 WI App

49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76 (identifying “protection of the community” and “rehabilitation of the defendant” as principal sentencing objectives).

In his motion for sentence modification, Gathings did not expressly identify any unreasonable or unjust basis for his sentence. Rather, he argued his sentence was “too harsh” when considering his “age and ability to work and care for his family.” He pointed out that he had a mental illness or disorder, significant support from his family, and a “good employment history.” He also wanted to be a part of his daughter’s life. However, the sentencing court was aware of all of those factors; it simply did not weigh them in a way more favorable to Gathings. As the circuit court explained in denying the motion for sentence modification:

The sentence is serious, but so is taking another person’s life, particularly in such a needless and brutal way.... [T]he defendant is a relatively young man. The plea agreement in this case spared him the possibility of life sentence and gave him a practical opportunity for release to extended supervision. The court has reviewed the defendant’s motion and is not persuaded that the sentence is unduly harsh under the extraordinary circumstances of this case.

We are similarly unpersuaded.

Therefore,

IT IS ORDERED that the judgment and order are summarily affirmed. *See* WIS. STAT. RULE 809.21.

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

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*Samuel A. Christensen*  
*Clerk of Court of Appeals*