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**DISTRICT III**

May 5, 2026

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

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2025AP602-CR

State of Wisconsin v. Theresa Marie Lasee  
(L. C. No. 2021CF1175)

Before Stark, P.J., Hruz, and Gill, 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).**

Theresa Marie Lasee appeals from a judgment of conviction and from a postconviction order that reduced the term of initial confinement for one of her counts of conviction—Count 8—in order to comply with the statutory maximum for that offense. Lasee argues that, instead of reducing her term of initial confinement for Count 8, the circuit court should have granted her resentencing on all counts or, at the very least, on Count 8 alone. 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> For the reasons explained below, we summarily affirm.

The State charged Lasee with 13 counts in 3 separate cases, alleging that she had defrauded multiple victims of hundreds of thousands of dollars. The cases were ultimately consolidated, and the parties reached a plea agreement. Lasee agreed to enter *Alford*<sup>2</sup> pleas to Counts 1, 6, 7, 8, 12 and 13 in the amended information, and the State agreed to recommend that the circuit court dismiss and read in the remaining seven counts. The six felony counts to which Lasee pled consisted of two counts of theft of moveable property valued between \$5,000 and \$10,000 (Counts 6 and 13); two counts of theft of moveable property valued between \$10,000 and \$100,000 (Counts 1 and 7); one count of theft of moveable property valued at over \$100,000 (Count 8); and one count of theft by false representation of property valued between \$10,000 and \$100,000 (Count 12).

The amended information listed the proper felony classifications for all of the charged counts, including Count 8, which was correctly listed as a Class F felony. *See* WIS. STAT. § 943.20(3)(cm). However, the circuit court's order for a presentence investigation report (PSI) erroneously listed Count 8 as a Class C felony. The PSI and the defense's independent PSI repeated that error. The PSI also erroneously stated that the maximum sentence for Count 8 was 40 years, bifurcated as 25 years' initial confinement followed by 15 years' extended supervision, which was the maximum sentence for a Class C felony. *See* WIS. STAT. §§ 939.50(c),

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

<sup>2</sup> *See North Carolina v. Alford*, 400 U.S. 25 (1970).

973.01(2)(b)3., (2)(d)2. Additionally, the PSI recommended a sentence of 12 to 14 years on Count 8, the range of which exceeded the applicable 12.5-year maximum sentence for a Class F felony. *See* § 939.50(3)(f).

Neither the parties nor the circuit court noticed these errors at sentencing. The court ultimately imposed consecutive sentences on each of the 6 counts of conviction, which totaled 21 years' initial confinement followed by 13 years' extended supervision. On Count 8, the court imposed a 15-year sentence, consisting of 10 years' initial confinement followed by 5 years' extended supervision. That sentence exceeded that maximum 12.5-year sentence for a Class F felony and also exceeded the applicable 7.5-year maximum period of initial confinement. *See* WIS. STAT. §§ 939.50(3)(f), 973.01(2)(b)6m. Lasee's judgment of conviction incorrectly listed Count 8 as a Class C felony, and it also incorrectly listed one of the read-in offenses—Count 9—as a Class C felony instead of a Class F felony.

Lasee moved for postconviction relief, asserting that she “was sentenced in excess of the maximum amount allowed by law” for Count 8 because the PSI incorrectly identified that count as a Class C felony.<sup>3</sup> Lasee therefore requested resentencing on two grounds—either because she was sentenced based on inaccurate information regarding the felony classification for Count 8, or because her trial attorney was constitutionally ineffective by failing to notice and correct that error.

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<sup>3</sup> Lasee also argued that the PSI author “was likely ... under the impression that a read-in count (Count 9) was also a Class C Felony (as it was the same level offense, i.e., theft of moveable property of a value over \$100,000 ...).” Notably, however, the PSI did not actually state either the felony classification for Count 9 or the maximum sentence for that offense.

The circuit court held an evidentiary hearing on Lasee’s postconviction motion, during which the probation agent who prepared the PSI acknowledged that the PSI incorrectly referred to Count 8 as a Class C felony. The agent asserted, however, that this error did not affect her sentence recommendations for any of the other counts. The parties also stipulated to the introduction of an affidavit from Lasee’s trial attorney, who averred that she had failed to notice the felony classification error in the PSI.

The State conceded that Lasee’s sentence on Count 8 was illegal. It argued, however, that the appropriate remedy for that error was for the circuit court to resentence Lasee on Count 8 only and to “allow the sentences on the remaining five counts to remain as previously ordered.” Lasee, in turn, asserted that she was entitled to resentencing on all six counts.

The circuit court entered a written order, in which it acknowledged that Lasee had “received a sentence that exceeded the maximum period of confinement for” Count 8, which was “mistakenly listed as a Class C Felony.” The court recognized that the only issue in dispute was the proper remedy for that error. The court then reviewed the victims’ statements from the sentencing hearing, as well as the court’s own sentencing remarks. After doing so, the court explained that it “does not consider classifications of felonies when it sentences a defendant. It looks at the facts underlying the offense, applies the *Gallion*<sup>[4]</sup> factors, and then comes up with a sentence it believes is fair to the defendant, fair to the victims, and fair to the public.” The court further explained that, in this case, it believed that a ten-year term of initial confinement on Count 8 “was appropriate” based on “what [Lasee] did to” the victim of that count. The court

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<sup>4</sup> See *State v. Gallion*, 2004 WI 42, 270 Wis. 2d 535, 678 N.W.2d 197.

also stated that Lasee was incorrect in assuming that “the mistake in the Count 8 classification affected all the other counts.” Instead, the court explained that “the sentencing on one count did not affect the sentencing on any other count” and that “[t]he court considered each count independently of each other.”

Under these circumstances, the circuit court determined that the appropriate remedy was to “remove the excess sentence” on Count 8, thereby reducing the initial confinement portion of Lasee’s sentence on that count to 7.5 years—the statutory maximum for a Class F felony. *See* WIS. STAT. § 973.01(2)(b)6m. The court did not alter the extended supervision portion of Lasee’s sentence on Count 8, which complied with the five-year statutory maximum for a Class F felony. *See* § 973.01(2)(d)4. The court later entered an amended judgment of conviction consistent with its written order, and this appeal follows.

Lasee argues that the circuit court should have resentenced her on all counts, or at least on Count 8, instead of simply reducing the initial confinement portion of her sentence on Count 8 to the maximum allowable sentence for a Class F felony. We agree with the State, however, that the court’s chosen remedy was appropriate under WIS. STAT. § 973.13.<sup>5</sup> That statute provides: “In any case where the court imposes a maximum penalty in excess of that authorized by law, such excess shall be void and the sentence shall be valid only to the extent of the maximum term authorized by statute and shall stand commuted without further proceedings.” *Id.* Section 973.13 “expressly commands courts to declare as void *all* sentences in excess of the maximum term authorized by law,” *State v. Mikulance*, 2006 WI App 69, ¶14, 291 Wis. 2d 494,

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<sup>5</sup> The interpretation of a statute and its application to undisputed facts present questions of law that we review independently. *McNeil v. Hansen*, 2007 WI 56, ¶7, 300 Wis. 2d 358, 731 N.W.2d 273.

713 N.W.2d 160, and that is precisely what the court did in this case. The court recognized that Lasee’s sentence on Count 8 exceeded the maximum term allowed by law, and it therefore commuted the excess portion of the sentence, without further proceedings, by reducing the initial confinement portion of the sentence from 10 years to 7.5 years.

Lasee argues that WIS. STAT. § 973.13 is inapplicable because the circuit court “did not impose the maximum penalty for the count pled to (i.e., a Class F Felony).” We agree that the court did not impose the maximum penalty for a Class F felony. Instead, as just discussed, the court imposed a penalty that *exceeded* the maximum penalty for a Class F felony. Section 973.13 clearly and unambiguously provided the applicable remedy for the court’s error in that regard. *See State v. Finley*, 2016 WI 63, ¶74, 370 Wis. 2d 402, 882 N.W.2d 761 (stating that § 973.13 “commutes a sentence imposed that exceeds the maximum statutory penalty”); *State v. Hanson*, 2001 WI 70, ¶20, 244 Wis. 2d 405, 628 N.W.2d 759 (“When a court imposes a sentence greater than that authorized by law, § 973.13 voids the excess.” (citation omitted)).<sup>6</sup>

Lasee nevertheless argues that she is entitled to resentencing either because the circuit court relied on inaccurate information when sentencing her or because her trial attorney was constitutionally ineffective by failing to notice and correct that inaccurate information. We reject both of these arguments.

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<sup>6</sup> In her reply brief, Lasee emphasizes that the circuit court did not cite WIS. STAT. § 973.13 in its decision on her postconviction motion. Be that as it may, we agree with the State that the court implicitly applied § 973.13, without expressly citing that statute. Regardless, even if the court did not intend to apply § 973.13, the statute clearly authorized the court’s reduction of the initial confinement portion of Lasee’s sentence on Count 8.

Lasee also emphasizes that, in the circuit court, the State conceded that “the most appropriate remedy [was] to resentence [Lasee] solely on Count 8.” We are not, however, bound by a party’s concession of law. *State v. Anderson*, 2014 WI 93, ¶19, 357 Wis. 2d 337, 851 N.W.2d 760.

Whether a defendant has been denied his or her constitutional right to be sentenced based upon accurate information is a constitutional issue that we review independently. *State v. Tiepelman*, 2006 WI 66, ¶9, 291 Wis.2d 179, 717 N.W.2d 1. A defendant who requests resentencing on this basis must show: (1) that there was inaccurate information before the circuit court at sentencing; and (2) that the court actually relied on the inaccurate information when imposing sentence. *Id.*, ¶26. In this case, it is undisputed that the PSI incorrectly listed Count 8 as a Class C felony, incorrectly listed the maximum penalty for Count 8, and recommended an illegal sentence for that count. Nevertheless, while this information was inaccurate, we agree with the State that Lasee has failed to show that the circuit court actually relied on the inaccurate information when imposing her sentences.

To establish actual reliance, a defendant must show that the circuit court gave “explicit attention” or “specific consideration” to the inaccurate information, such that the inaccurate information “formed part of the basis for the sentence.” *Id.*, ¶14 (citation omitted). When considering whether a defendant has shown actual reliance, “we look to the circuit court’s articulation of its basis for imposing the sentence ... [i]n the context of the whole sentencing transcript.” *State v. Alexander*, 2015 WI 6, ¶29, 360 Wis. 2d 292, 858 N.W.2d 662.

Here, the sentencing transcript, as a whole, shows that the circuit court did not rely on the inaccurate information in the PSI when imposing Lasee’s sentences. During its sentencing remarks, the court made no references whatsoever to: (1) the felony classifications for any of the counts; (2) the erroneous maximum sentence for Count 8, as stated in the PSI; or (3) any of the sentence recommendations in the PSI, including the recommendation for Count 8. Instead, after referencing the *Gallion* factors, the court emphasized the seriousness of Lasee’s crimes, based on the amount of money stolen and the grave impacts on Lasee’s multiple victims; Lasee’s lack of

remorse and failure to accept responsibility; the need to protect the public; the need for punishment; the need to deter others from committing similar crimes; and the need to ensure public confidence in the criminal justice system.

On this record, Lasee has failed to show that the circuit court actually relied on any inaccurate information regarding the felony classification and maximum sentence for Count 8 when imposing her sentences. The sentencing transcript, as a whole, shows that the court did not give “explicit attention” or “specific consideration” to that information when sentencing Lasee. See *Tiepelman*, 291 Wis. 2d 179, ¶14 (citation omitted).

Lasee has also failed to show that her trial attorney was constitutionally ineffective by failing to notice and correct the errors in the PSI. To prevail on an ineffective assistance claim, a defendant must show both that counsel’s performance was deficient and that the deficient performance prejudiced the defense. *State v. Breitzman*, 2017 WI 100, ¶37, 378 Wis. 2d 431, 904 N.W.2d 93. Here, Lasee’s ineffective assistance claim fails because she has not established prejudice, the existence of which is a question of law that we review independently. See *id.*, ¶39.

To establish prejudice, a defendant must show “a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Id.* (citation omitted). There is no such reasonable probability here. As discussed above, while the PSI contained errors regarding the felony classification and maximum sentence for Count 8, Lasee has failed to show that the circuit court actually relied on that inaccurate information when imposing her sentences. Moreover, in its postconviction decision, the court confirmed that it does not consider felony classifications when sentencing defendants; that it believed a ten-year period of initial confinement on Count 8 was “appropriate for what [Lasee] did to” the victim;

and that the PSI's mistake regarding the classification of Count 8 did not affect the court's sentences on the other counts. Under these circumstances, there is no reasonable probability that the result of Lasee's sentencing would have been different had her trial attorney noticed and corrected the PSI's errors regarding Count 8.

Finally, Lasee argues that the circuit court violated her right to due process by failing "to adhere to [its] own briefing schedule before rendering a decision" on her postconviction motion. (Formatting altered.) Lasee notes that, following the evidentiary hearing on her motion, the court set a briefing schedule that gave her until March 14, 2025, to file a reply brief. Lasee ultimately filed her reply brief on March 13, 2025, and the court issued its decision the same day. Lasee emphasizes that the circuit court clerk assigned a lower document number to the court's decision than to Lasee's reply brief, and she surmises that these numbers were assigned "in the order in which [the documents] were received." Thus, Lasee posits that the court prepared and filed its decision before she filed her reply brief, and one day before her reply brief was actually due.

We reject Lasee's due process argument because, even assuming that the circuit court prepared and filed its decision without first considering Lasee's reply brief, Lasee has failed to cite any legal authority supporting the proposition that the court's failure to consider her reply brief constituted a due process violation. Furthermore, Lasee does not identify any argument or authority contained in her reply brief—which was a scant three pages long, and double spaced—that the court failed to consider. Regardless, if Lasee believed that the court failed to consider an important point of law or fact raised in her reply brief, she was free to file a motion for reconsideration of the court's decision. See *Koepsell's Olde Popcorn Wagons, Inc. v. Koepsell's Festival Popcorn Wagons, Ltd.*, 2004 WI App 129, ¶44, 275 Wis.2d 397, 685

N.W.2d 853. She chose not to do so. We agree with the State that “[t]hese circumstances do not give rise to a due process violation.”

Therefore,

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