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**DISTRICT I**

August 11, 2026

To:

Hon. Dennis R. Cimpl  
Circuit Court Judge  
Electronic Notice

John Blimling  
Electronic Notice

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

Stanley L. Lewis 190544  
Kettle Moraine Correctional Inst.  
P.O. Box 31  
Plymouth, WI 53073

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

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|              |                                                            |
|--------------|------------------------------------------------------------|
| 2025AP447-CR | State of Wisconsin v. Stanley L. Lewis (L.C. # 2017CF5170) |
| 2025AP448-CR | State of Wisconsin v. Stanley L. Lewis (L.C. # 2018CF1525) |

Before Donald, C.J., Colón, P.J., and Geenen, 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).**

Stanley L. Lewis appeals from an order of the circuit court denying his motion for resentencing. 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 order is summarily affirmed.

Lewis pled guilty to one count of robbery of a financial institution as party to a crime and one count of armed robbery with a threat of force. The circuit court sentenced Lewis to a total of

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

sixteen years of incarceration.<sup>2</sup> Almost a year later, Lewis filed a motion for sentence modification in the circuit court. He claimed that the State “unjustly exercised multiplicity in the charging” and “used extreme malice” against him in prosecuting the cases. The circuit court denied the motion as “frivolous.” Lewis did not appeal the order denying that motion.

Approximately five years later, Lewis moved for resentencing, this time requesting access to the Earned Release Program (now known as the Substance Abuse Program or “SAP”). The circuit court again denied Lewis’s request, finding that it appropriately exercised its discretion in declining to make Lewis eligible for the SAP based on the “nature and repetitive nature of” Lewis’s crimes. Lewis did not appeal from the order denying that motion.

Shortly thereafter, Lewis filed the motions for resentencing underlying this appeal.<sup>3</sup> Lewis again argued that the circuit court erroneously exercised its sentencing discretion when it found him ineligible for the SAP. Lewis argued that his claim was not procedurally barred because it was based on a “new factor.” The circuit court denied the motions in one order, noting that Lewis did not actually present a new factor in his motions and that the underlying claim was both untimely and previously litigated. This appeal follows.

On appeal, Lewis again contends that the circuit court erroneously exercised its discretion when it denied his eligibility for the SAP, arguing that the circuit court failed to consider his rehabilitative needs. He also contends that the circuit court erroneously found his motions for resentencing based on new factors untimely. We disagree.

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<sup>2</sup> Lewis was convicted in two separate cases, but the circuit court held one sentencing hearing.

<sup>3</sup> Lewis filed identical motions in each circuit court case.

With regard to Lewis's claim that the circuit court erroneously found him ineligible for the SAP, we conclude that this issue was previously litigated. Prior to filing the motions underlying this appeal, Lewis moved the circuit court for resentencing, arguing that he was eligible for the SAP. Lewis did not pursue an appeal of the circuit court's denial of this claim, and, consequently, he may not assert it again in this case. See *State v. Witkowski*, 163 Wis. 2d 985, 990, 473 N.W.2d 512 (Ct. App. 1991) ("A matter once litigated may not be relitigated in a subsequent postconviction proceeding no matter how artfully the defendant may rephrase the issue."); see also *State v. Crockett*, 2001 WI App 235, ¶12, 248 Wis. 2d 120, 635 N.W.2d 673 (concluding that the defendant's argument was barred under *Witkowski* because "[the defendant] raised this claim in his initial postconviction motion, but the motion was denied and [the defendant] failed to appeal the issue"). We do not discuss this further.

As to Lewis's claim that the circuit court erroneously found his motion for resentencing/sentence modification based on new factors untimely, we note that a defendant who seeks to challenge only his sentence following conviction can move for sentence modification within ninety days of sentencing. See WIS. STAT. § 973.19(1)(a). A defendant who seeks sentence modification based on a new factor may move the court for relief at any time. See *State v. Noll*, 2002 WI App 273, ¶¶11-12, 258 Wis. 2d 573, 653 N.W.2d 895. A new sentencing factor is a fact or set of facts highly relevant to the imposition of sentence but not known to the court at the time of sentencing, either because the fact was not then in existence or because it was unknowingly overlooked by all the parties. *Rosado v. State*, 70 Wis. 2d 280, 288, 234 N.W.2d 69 (1975). A defendant bears the burden of establishing a new factor by clear and convincing evidence. *State v. Harbor*, 2011 WI 28, ¶36, 333 Wis. 2d 53, 797 N.W.2d 828. Whether a

particular fact or set of facts constitutes a new factor is a question of law subject to de novo review. *Id.*, ¶¶33, 36.

Lewis’s motions did not actually allege a new factor. Rather, Lewis’s motions alleged that the circuit court erred by giving “too much weight to [his] criminal history.” He also argued that the circuit court erred when it considered the possibility that Lewis had received substance abuse treatment during prior incarcerations. The basis of Lewis’s motions was his claim that “the court erroneously exercised its discretion” when rendering its sentence; however, Lewis did not allege any new factors. He simply challenged the circuit court’s rationale for the sentence it imposed. Lewis’s “new factor” argument is an attempt to circumvent the procedural bar and avoid statutory time limits. We will not consider this argument further.

For the foregoing reasons, we affirm the order denying Lewis’s motions for resentencing/sentence modification.

Therefore,

IT IS ORDERED that the order is 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*