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DISTRICT I

September 1, 2026

To:

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Circuit Court Judge
Electronic Notice

Kathleen Henry
Electronic Notice

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

Daniel J. O'Brien
Electronic Notice

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

2025AP496-CR

State of Wisconsin v. Dayquan Lee Harris (L.C. # 2021CF5201)

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).

Dayquan Lee Harris appeals from his judgment of conviction for first-degree intentional homicide, and from the order denying 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).¹ We summarily affirm.

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

Harris was charged in the 2021 shooting death of Jermaine Armstrong. Surveillance video showed Armstrong arriving at a store and exiting his car; he was then approached by a man and shot once at close range. Police learned that Armstrong's wallet had been stolen, and his credit card was used an hour after the shooting at a fast-food restaurant. His credit card was also used to make purchases on Amazon. Police tracked the Amazon packages to a house on North 24th Place, and the occupants of that residence identified the shooter as Harris. The gun used to shoot Armstrong was also tied to Harris, after a bullet casing discovered at that residence was matched to the casing found at the shooting scene.

Harris was arrested and charged with first-degree intentional homicide using a dangerous weapon. The State explained its charging decision was due to the "point-blank" range at which Armstrong had been shot, which was "practically certain to kill him." Harris was also charged with possession of a firearm by an adjudicated delinquent. He was nineteen years old at the time.

The matter proceeded to trial in February 2023. On the second day of trial, however, Harris opted to resolve the matter with a plea. In exchange for his guilty plea for first-degree intentional homicide, the State dismissed the weapons enhancer for that charge. The charge of possession of a firearm by an adjudicated delinquent was also dismissed but read in for sentencing purposes.

At the scheduled sentencing hearing, Harris moved to withdraw his plea. He claimed that his trial counsel had erroneously told him that he would not be subject to a life sentence if he entered a plea. At a subsequent hearing on the motion, Harris's trial counsel testified that he had explained the penalties to Harris prior to his entering his plea; specifically, that there is a

mandatory life sentence for first-degree intentional homicide, with the circuit court's only discretion being whether to permit eligibility for release to extended supervision. Counsel further testified that Harris's decision to enter his plea came after a particular witness had testified against him and, counsel believed, Harris was surprised that witness had cooperated with the State. Counsel stated that Harris was "adamant" about resolving the matter with a plea. Harris refused to testify at the motion hearing.

The circuit court found trial counsel's testimony to be credible. It also observed that its plea colloquy with Harris, including information about the penalties he was facing, was "extremely thorough." The court therefore denied Harris's motion to withdraw his plea.

The matter proceeded to sentencing. In considering the required sentencing factors, the court noted Harris's age and his "really tough childhood." However, the court also referenced Harris's extensive juvenile record, observing that he had "a lot of opportunities in the juvenile justice system to get some help" but that he instead chose to continue to commit crimes. The court further observed that the circumstances of this crime showed a "level of callousness that is extraordinary," in that Harris shot Armstrong at point-blank range and then went out to dinner, using Armstrong's credit card, an hour later.

The circuit court also considered the effect of Armstrong's loss on his family, and stated that it had not seen Harris "express any remorse" or "take any real responsibility" for the crime. It further found that there were no "redeeming or mitigating factors" present. Therefore, the court imposed the mandatory life sentence without eligibility for release to extended supervision.

Harris subsequently filed a postconviction motion for sentence modification. Harris sought eligibility for release after serving twenty years of his sentence, arguing that the sentence

was unduly harsh based on his age. The circuit court, noting the aggravating circumstances of the crime, denied the motion.² This appeal follows.

It is a “well-settled principle of law” that the circuit court exercises its discretion in sentencing a defendant. *State v. Gallion*, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197. The circuit court erroneously exercises its discretion when it “fails to state the relevant and material factors that influenced its decision, relies on immaterial factors, or gives too much weight to one factor in the face of other contravening factors.” *State v. Steele*, 2001 WI App 160, ¶10, 246 Wis. 2d 744, 632 N.W.2d 112. With regard to the length of the sentence, the circuit court exceeds its discretion only when the sentence is “so excessive and 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.” *Id.* (citation omitted).

In fashioning a sentence, the circuit court must consider the primary sentencing factors of the gravity of the offense, the character of the defendant, and the need to protect the public. *State v. Ziegler*, 2006 WI App 49, ¶23, 289 Wis. 2d 594, 712 N.W.2d 76. It may also consider other relevant factors such as the defendant’s prior criminal record and any other “undesirable behavior pattern”; the nature of the crime, such as if it was “vicious or aggravated”; the defendant’s age, level of education attained, and employment record; and the defendant’s “demeanor before the court,” including whether “remorse, repentance and cooperativeness” was

² Harris’s plea was taken, and his sentence was imposed by, the Honorable Ellen R. Brostrom. His postconviction motion was heard by the Honorable Jeffrey A. Wagner, who noted Judge Brostrom’s “careful consideration” of whether to grant Harris eligibility for release. Judge Wagner concluded that “Judge Brostrom’s sentencing discussion reflects she did not make this decision lightly, and this court stands by her discretionary decision.”

demonstrated. *Id.* The weight given to any of these factors is left to the discretion of the circuit court. *Id.* Additionally, the determination of whether a defendant should be deemed eligible for release on extended supervision “is governed by the same factors that govern a sentencing decision[.]” *State v. Barbeau*, 2016 WI App 51, ¶18, 370 Wis. 2d 736, 883 N.W.2d 520.

When the circuit court has properly exercised its discretion, this court “follow[s] a consistent and strong policy against interference with the discretion of the [circuit] court[.]” *Ziegler*, 289 Wis. 2d 594, ¶22. Indeed, we “afford a strong presumption of reasonability to the [circuit] court’s sentencing determination because th[at] court is best suited to consider the relevant factors and demeanor of the convicted defendant.” *Id.* Furthermore, this court “may not substitute our judgment for that of the [circuit] court simply because we might have imposed a different sentence.” *Id.*

The record here reflects that the circuit court considered the primary factors as well as other relevant factors. The court considered this offense to be the “gravest of offenses,” noting the “callousness” of the crime and the devastating impact it had on Armstrong’s family. In discussing Harris’s character, the court noted his childhood circumstances where “the streets kind of became [his] family” after his mother passed away. However, the court further observed that “there are lots of kids, sadly, who have similar experiences, and they don’t go out on the street and rob people at gun point and they don’t shoot people.” With regard to the protection of the public, the court referenced Harris’s extensive juvenile record and the opportunities he had to choose a different path, but that he instead continued to commit crimes.

The circuit court also weighed Harris’s young age and his potential for rehabilitation. The court stated it had been “thinking a lot” about who Harris “will be down the road” and the

possibility that he may reform in prison. However, given Harris’s lack of remorse and failure to take any responsibility for his crime, the court ultimately determined that he should not be eligible for release to supervision.

These are all relevant factors for consideration at sentencing, *see Ziegler*, 289 Wis. 2d 594, ¶22; *Barbeau*, 370 Wis. 2d 736, ¶18, which the circuit court discussed in detail. Indeed, while the court must provide an explanation for the sentence it imposed, “it need not explain why it did not impose a lesser sentence.” *State v. Davis*, 2005 WI App 98, ¶26, 281 Wis. 2d 118, 698 N.W.2d 823. Furthermore, the sentence is within the statutory requirements, and is therefore generally not considered to be “unduly harsh or unconscionable.” *State v. Grindemann*, 2002 WI App 106, ¶31, 255 Wis. 2d 632, 648 N.W.2d 507.

Therefore, we conclude that the circuit court did not erroneously exercise its discretion in the sentence it imposed on Harris. *See Steele*, 246 Wis. 2d 744, ¶10. Accordingly, we affirm the judgment of conviction and order denying the postconviction motion.

Upon the foregoing,

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.

Samuel A. Christensen
Clerk of Court of Appeals