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DISTRICT II

September 30, 2026

To:

Hon. Kristin M. Cafferty
Circuit Court Judge
Electronic Notice

Sarah Burgundy
Electronic Notice

Amy Vanderhoef
Clerk of Circuit Court
Racine County Courthouse
Electronic Notice

Wade A. Curtis #219597
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You are hereby notified that the Court has entered the following opinion and order:

2024AP2373-CR

State of Wisconsin v. Wade A. Curtis (L.C. #1989CF761)

Before Lazar, P.J., Grogan, and LoCoco, 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).

Wade A. Curtis, now known as Wazir M. El-Amin, pro se, appeals from an October 14, 2024 order denying his motion for reconsideration. At issue is whether we have jurisdiction to hear this appeal. 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 Because Curtis does not raise any new issues in his reconsideration motion, we lack jurisdiction. Accordingly, we dismiss his appeal.

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

In 1990, a jury found Curtis guilty of first-degree intentional homicide with a dangerous weapon in concert with another, contrary to WIS. STAT. §§ 940.01, 939.63(1)(a)2, and 939.05 (1989-90). The trial court imposed a life sentence without the eligibility for parole until 2028—approximately 38 years. In 2021, Curtis filed a motion for postconviction relief alleging that new factors warranted sentence modification.² Specifically, Curtis argued two new factors justified sentence modification. First, he argued the prosecutor mistakenly recommended his parole eligibility be set at 40 years when it should have been 30 years because that is what it was for Curtis’s co-defendant and brother. Second, he argued new scientific research about the adolescent brain emerged that “significantly impacted how courts [viewed] sentences [for] youthful offenders” given he was sentenced at age 18. As a result, he wanted the circuit court to order a resentencing hearing or modify his parole eligibility to 30 years.

The circuit court held a hearing on August 24, 2021, on his motion and orally denied it.³ Regarding the alleged parole eligibility recommendation mistake, the circuit court determined this was not a new factor because Curtis’s claim was purely speculative. Regarding the brain-science research, the circuit court relied on Wisconsin case law to conclude that these developments did not constitute a new factor even though it agreed that there was “research and

² Curtis filed an amended motion sometime after.

³ We use “circuit court” when referring to the judges who presided over the August 24, 2021 postconviction hearing and issued the July 29, 2024 written order. We use “reconsideration court” when referring to the court who decided the reconsideration motion.

studies done about brain science for adolescents” and that it had read it “with great interest.”⁴ It did not enter a written order denying the motion.

Curtis subsequently moved the circuit court to enter a written order memorializing its oral decision because he would “not be able to appeal t[he] court’s decision without having a true and exact copy of the record of the hearing.” The circuit court seemingly did not respond to his request. In 2023, Curtis petitioned this court for a supervisory writ requesting that we order the circuit court to produce a written order for its August 2021 decision denying his new factor motion and also for release of the hearing transcript. On July 29, 2024, the circuit court entered a written order denying Curtis’s new factor motion. On August 6, 2024, we denied Curtis’s petition for supervisory writ as the petition had become moot because the circuit court issued the written order.

Curtis did not appeal the circuit court’s July 29, 2024 written order. Instead, on August 26, 2024, he filed a motion for reconsideration in which he made the same new factor arguments that the circuit court previously rejected. His reconsideration motion alleged the circuit court “disregarded the evidence presented in [his motion] and failed to follow the controlling sentence modification precedent[.]”

On October 14, 2024, the reconsideration court denied Curtis’s reconsideration motion. It refused to “entertain reconsideration” of what had already been decided in the July 2024 order,

⁴ See *State v. Ninham*, 2011 WI 33, ¶91, 333 Wis. 2d 335, 797 N.W.2d 451 (holding that MRI studies did not constitute a new factor because the conclusions from them “were already in existence and well reported” at the time of sentencing); see also *State v. McDermott*, 2012 WI App 14, ¶¶16-22, 339 Wis. 2d 316, 810 N.W.2d 237 (rejecting the adolescent brain research argument by discussing *Ninham* and humanity’s view of adolescents throughout history).

stating Curtis mostly “rehashe[d]” the 2021 postconviction motion. The reconsideration court briefly discussed and rejected Curtis’s claim that the circuit court failed to follow the controlling, sentence-modification precedent as evidenced by the 2021 hearing transcript, which clearly showed the circuit court had applied new factor case law and “listened to the arguments of counsel, read the briefs, and reached the conclusion that the defense had not met its burden of proof on the issue of a new factor.” Regarding the parole recommendation argument, the reconsideration court said that it “could not determine that a mistake had been made, and even if one had,” there was nothing to show “it was relied upon by the sentencing court.” Regarding the “young brain” argument, the reconsideration court found that the circuit court read the research but reasonably concluded that the information was readily available to the courts at the time of sentencing. The reconsideration court concluded “there was no new factor that entitled [Curtis] to relief. There is no basis for a reconsideration[.]”

On November 18, 2024, Curtis, filed a notice of appeal indicating he was appealing the October 14, 2024 reconsideration order.⁵ We lack jurisdiction to review an order denying a reconsideration motion when the motion “presents the same issues as those determined in the order or judgment sought to be reconsidered.” *Silverton Enters., Inc. v. General Cas. Co. of Wis.*, 143 Wis. 2d 661, 665, 422 N.W.2d 154 (Ct. App. 1988). This rule arose out of concerns that reconsideration motions could be used as a “ploy to extend the time to appeal from an order or judgment when the time to appeal has expired.” *Id.*; see also *Ver Hagen v. Gibbons*,

⁵ Curtis also attempted to appeal the July 29, 2024 order. However, because Curtis failed to appeal from the July 29, 2024 order timely, we issued an order indicating that we lacked jurisdiction to review that order.

55 Wis. 2d 21, 26, 197 N.W.2d 752 (1972) (“[I]f an appeal were allowed in such a case, the statute limiting the time for appeal would be wholly nullified.”).

Curtis’s notice of appeal was timely filed only with respect to the order denying his reconsideration motion. On February 10, 2025, we ordered the parties to address in their briefs “whether the motion for reconsideration that was denied in the October 14, 2024 order presented the same issues as those determined in the July 29, 2024 order from which reconsideration was sought, and whether this court has jurisdiction to review some or all of the October 14, 2024 order.” See **Kraemer v. Traun**, 2025 WI App 8, ¶43, 415 Wis. 2d 125, 17 N.W.3d 49. Curtis argues we have jurisdiction. The State contends we lack it.

Whether we have jurisdiction is a question of law that we examine de novo. **State v. Scaccio**, 2000 WI App 265, ¶4, 240 Wis. 2d 95, 622 N.W.2d 449. As explained, we only have jurisdiction over a reconsideration order if the reconsideration motion raised new issues. Thus, in order to determine if we have jurisdiction, we need to compare the issues Curtis raised in his postconviction motion with those he raised in his reconsideration motion to determine whether he raised any new issues for the reconsideration court to decide. See **Harris v. Reivitz**, 142 Wis. 2d 82, 87, 417 N.W.2d 50 (Ct. App. 1987). We conclude he did not raise any new issues in his reconsideration motion. We agree with the reconsideration court that Curtis simply “rehashe[d]” his arguments in his reconsideration motion that had already been decided by the circuit court. Although the arguments are not worded verbatim, the crux of both alleged new factors—that the prosecutor made a mistake in its parole eligibility recommendation and that

there was new evidence regarding brain development of adolescents—are the same.⁶ Thus, the *Ver Hagen/Silverton* rule applies, and Curtis cannot extend his time to appeal the July 29, 2024 order by filing his reconsideration motion.

We conclude that Curtis’s reconsideration motion did not raise any new issues that were not already decided in the July 29, 2024 written order; therefore, we lack jurisdiction and dismiss the appeal.

Based on the foregoing,

IT IS ORDERED that this appeal is summarily dismissed for lack of jurisdiction. *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

⁶ For example, in both the reconsideration and the original postconviction motions, Curtis argued that the prosecution made a parole eligibility recommendation mistake by providing an eligibility date of 40 years instead of 30 years. Curtis “rehashes” this argument in his reconsideration motion by adding some different legal authorities and editing some of his arguments, i.e., he argued more on due process grounds in his reconsideration motion than the original 2021 postconviction motion did.

Curtis also requests we “retain” jurisdiction to review the July 29, 2024 written order despite our earlier order deciding we lack jurisdiction to review the July 2024 order. Our February 10, 2025 order already explained that we lack jurisdiction to review the July 2024 order because Curtis’s “notice of appeal was not filed until 112 days after the July 29, 2024 order was entered.” *See* WIS. STAT. § 808.04(1) (requiring a notice of appeal to be filed within 90 days if no notice of entry of order or judgment is given in order for us to have jurisdiction).

Finally, Curtis seems to believe his “manifest error of law” claim somehow confers jurisdiction because the reconsideration court briefly addressed this claim. We disagree. If an application of the manifest error standard constituted a new factor, it would grant *all* parties a method to sidestep the statutory time to appeal, which *Ver Hagen v. Gibbons*, 55 Wis. 2d 21, 26, 197 N.W.2d 752 (1972), and its progeny does not permit.