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DISTRICT I

October 20, 2026

To:

Hon. Paul R. Van Grunsven
Circuit Court Judge
Electronic Notice

Sarah Catherine Geers
Electronic Notice

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

Kathleen Henry
Electronic Notice

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

2025AP899-CR	State of Wisconsin v. Jamar Tyrex Jones (L.C. # 2020CF3428)
2025AP900-CR	State of Wisconsin v. Jamar Tyrex Jones (L.C. # 2020CF4280)
2025AP901-CR	State of Wisconsin v. Jamar Tyrex Jones (L.C. # 2023CF385)

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).

Jamar Tyrex Jones appeals from his judgments of conviction, and the order denying his motion for sentence modification, in these consolidated matters. Based upon our review of the briefs and records, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2023-24).¹ We summarily affirm.

Jones was charged with a number of drug-related charges, as well as several felony bail jumping charges and two counts of possession of a firearm by an adjudicated delinquent. He

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

opted to resolve the charges with a global plea agreement, and was sentenced to a total of ten years of initial confinement followed by ten years of extended supervision. The circuit court further determined that Jones was not eligible for either the challenge incarceration program (CIP) or the substance abuse program (SAP).

Jones subsequently filed a postconviction motion seeking sentence modification. He argued that the lack of other prison programming at his institution constituted a new factor, and requested that his sentences be modified to run concurrently rather than consecutively. Jones further argued that the circuit court erroneously exercised its discretion in failing to make him eligible for the CIP or SAP.

The circuit court rejected both arguments. It found that the lack of programming was not a new factor because it was known at the time of sentencing, as Jones' trial counsel had noted during the sentencing hearing that there were issues relating to programming due to prison staffing shortages. Furthermore, the court stated that the sentences imposed were "intended to punish the defendant for his crimes, to deter his unabated criminality, and to protect the community," and therefore "[t]he lack of programming within the prison system is not highly relevant to the court's sentencing decision in this case."

Additionally, the circuit court explained its exercise of discretion in determining that Jones was not eligible for the CIP or SAP. It stated that at sentencing, it had considered Jones' criminal history of both juvenile adjudications and adult convictions, the "seriousness" of those offenses and "their impact on the community," the "failure of probation to modify [Jones'] behavior," and "his commission of even more severe drug crimes in [the last case charged] while in bench warrant status for over a year in his other cases." The court therefore concluded that its

determination of ineligibility “represent[ed] a sound exercise of its sentencing discretion in light of [Jones’] demonstrated disregard for the law, particularly concerning drug dealing offenses.”

As a result, the circuit court denied Jones’ motion for sentence modification. This appeal follows.

First, we review Jones’ argument that the lack of prison programming is a new factor warranting sentence modification. A new factor is “a fact or set of facts highly relevant to the imposition of sentence, but not known to the trial judge at the time of original sentencing, either because it was not then in existence or because ... it was unknowingly overlooked by all of the parties.” ***State v. Harbor***, 2011 WI 28, ¶40, 333 Wis. 2d 53, 797 N.W.2d 828 (citation omitted). To prevail on such a claim, a defendant has the burden of demonstrating by clear and convincing evidence that a new factor exists, and showing that the alleged new factor justifies sentence modification. ***Id.***, ¶¶36-38. Whether a fact or set of facts constitutes a new factor is a question of law that we review de novo. ***Id.***, ¶36.

Jones’ claim about the lack of prison programming does not meet the definition of a new factor. The record clearly reflects that this issue was known to the circuit court at the time of sentencing, as it was referenced by trial counsel. Furthermore, the court’s comments at sentencing indicate that its paramount concerns in fashioning Jones’ sentences were punishment and the need to protect the public, supporting its statement that the lack of prison programming was not highly relevant to its sentencing decision. Therefore, Jones has not met his burden of demonstrating the existence of a new factor. *See id.*

Nevertheless, Jones argues that the circuit court should have also considered his rehabilitative needs. While rehabilitation is indeed a proper factor for consideration at sentencing, the circuit court's discussion of Jones' extensive criminal history, and its comment that Jones had not "change[d] at all" but rather continued to commit crimes, indicates that it considered Jones' previous opportunities for rehabilitation along with the fact that they had not led to a change in his behavior. The weight given to factors considered at sentencing is "within the wide discretion of the sentencing judge." *State v. Prineas*, 2009 WI App 28, ¶30, 316 Wis. 2d 414, 766 N.W.2d 206. Although the circuit court sentenced Jones differently than he might have hoped, that is not an erroneous exercise of discretion.² See *id.*, ¶34.

Similarly, Jones has not shown that the circuit court erroneously exercised its discretion in determining he was not eligible for the CIP or SAP. The determination of whether to allow eligibility in the CIP and SAP is "part of the [circuit] court's exercise of sentencing discretion." *State v. Owens*, 2006 WI App 75, ¶9, 291 Wis. 2d 229, 713 N.W.2d 187. In fact, the court is not required to make "completely separate findings on the reasons for the eligibility decision," as long as the "overall sentencing rationale" justifies the programming determination. *Id.*

Here, the circuit court plainly spelled out its reasons for denying Jones eligibility for programming:

² While we tend to agree with Jones that the lack of programming in prisons appears concerning as it relates to rehabilitation and the prevention of recidivism, especially for young incarcerated individuals such as Jones, who was 22 years old at the time he was sentenced, we note that the extent and types of programs offered to incarcerated individuals, and the criteria for eligibility for those programs, are legislative decisions and are not within control of this court.

the failure on probation, the failure to modify his behavior with pending charges, the failure to report to court after having an open warrant, the picking up a new case while having an open warrant convinces me that it's not appropriate in this instance to make Mr. Jones eligible for either the [CIP] or the [SAP].

Again, Jones' hope for different sentencing terms is not the equivalent of an erroneous exercise of discretion. See *Prineas*, 316 Wis. 2d 414, ¶34.

In short, both of Jones' claims in his motion for sentence modification fail. Accordingly, we affirm the judgments of conviction and the order denying his motion for sentence modification.

Therefore,

IT IS ORDERED that the judgments 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