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DISTRICT I

November 24, 2026

To:

Hon. Audrey Skwierawski
Circuit Court Judge
Electronic Notice

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

Kathleen Henry
Electronic Notice

Christine A. Remington
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You are hereby notified that the Court has entered the following opinion and order:

2025AP1095-CR State of Wisconsin v. Frankie Vernon Lewis (L.C. # 2023CF2122)

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).

Frankie Vernon Lewis appeals a judgment of conviction and a postconviction order. He contends that the circuit court erroneously denied his 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.

The State alleged in a criminal complaint that Lewis became intoxicated, fought with his wife and daughter, then stabbed his wife in the head and chest. The State further alleged that at

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

the time of these actions, Lewis was out of custody because he had failed to report to jail to serve time imposed as a condition of his probation for an earlier conviction. The State charged Lewis with four crimes arising out of these events.

Lewis resolved the charges short of trial. Pursuant to two interrelated plea agreements, he pled guilty to two crimes: (1) attempted first-degree intentional homicide by use of a dangerous weapon and as a habitual offender, a Class B felony carrying a maximum of 71 years of imprisonment, *see* WIS. STAT. §§ 940.01(1)(a), 939.32(1)(a), 939.50(3)(b), 939.62(1)(c), 939.63(1)(b); and (2) failing to report to jail, a Class H felony carrying a maximum of 6 years of imprisonment and a $10,000 fine. *See* WIS. STAT. §§ 946.425(1m)(b), 939.50(3)(h). The circuit court dismissed and read in the remaining charges of substantial battery and disorderly conduct.

At sentencing, the State, as promised, recommended an aggregate of 15-to-17 years of initial confinement. Lewis acknowledged that the case warranted a prison sentence and recommended an aggregate of eight years of initial confinement. Neither party took a position as to the appropriate length of extended supervision. The circuit court imposed a 25-year term of imprisonment for the attempted homicide conviction and bifurcated the sentence as 15 years of initial confinement and 10 years of extended supervision. The circuit court imposed an evenly bifurcated two-year term of imprisonment for Lewis's failure to report to jail. The circuit court ordered Lewis to serve the two sentences concurrently with each other but ordered that he serve the attempted homicide sentence consecutive to any previously imposed sentence.

Lewis moved for sentence modification. He asserted that, in light of the information about his life and background discussed at sentencing, a new factor existed, specifically, "that the sentence is greater than the minimum necessary to achieve the sentencing objectives." He

asked the circuit court to reduce his aggregate initial confinement by five years and allow him to serve that term concurrently with an earlier-imposed term of confinement that he was serving following revocation of his probation for first-degree reckless injury. The circuit court denied the motion, and Lewis appeals.

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). Whether a new factor exists is a question of law for our de novo review. ***Id.***, ¶36.

As the circuit court correctly explained, Lewis failed to allege a new factor. His allegation that the aggregate sentence in this case was longer than necessary does not identify "a fact or set of facts" within the meaning of ***Harbor***. Rather, the allegation constitutes Lewis's opinion about the appropriate length for his sentence and is based on information that was known at the time of his original sentencing. *Cf.* ***State v. Sobonya***, 2015 WI App 86, ¶¶6-7, 365 Wis. 2d 559, 872 N.W.2d 134 (holding that a sociologist's post-sentencing report describing the sentencing outcome best suited to serving the public interest and public safety is not a new factor but an opinion based on previously known or knowable facts). The circuit court therefore properly rejected Lewis's new factor claim.

The circuit court then considered whether Lewis had demonstrated that his aggregate sentence constituted an erroneous exercise of sentencing discretion. *See* ***State v. Gallion***, 2004

WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197. The circuit court concluded that he had not done so. We again agree with the circuit court.[2]

Long-settled rules govern a circuit court's exercise of sentencing discretion. ***State v. Taylor***, 2006 WI 22, ¶17, 289 Wis. 2d 34, 710 N.W.2d 466. The circuit court should indicate the sentencing objectives of greatest importance, and in advancing those objectives the 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. The circuit court may also consider a wide range of other factors concerning the defendant, the offense, and the community. ***Id.*** The circuit court has discretion to determine both the factors that it believes are relevant to sentencing and the weight to assign to each relevant factor. ***State v. Stenzel***, 2004 WI App 181, ¶16, 276 Wis. 2d 224, 688 N.W.2d 20. "Furthermore, 'a trial judge clearly has discretion in determining the length of a sentence within the permissible range set by statute.'" ***Taylor***, 289 Wis. 2d 34, ¶19 (citation modified). Accordingly, a reviewing court will not conclude that the sentencing court erroneously exercised its discretion in determining the length of a sentence unless that 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.*** (citations omitted).

[2] The State suggests that Lewis forfeited his challenge to the circuit court's exercise of sentencing discretion by failing to raise the challenge properly in his postconviction motion. *See* ***State v. Johnson***, 2025 WI App 20, ¶16, 415 Wis. 2d 682, 19 N.W.3d 645. The record reflects, however, that Lewis articulated the challenge with sufficient specificity as to allow the circuit court to understand and rule on the claim. *See* ***id.*** Moreover, the State's respondent's brief includes a thorough response to the substance of the challenge. Accordingly, we address it.

The circuit court considered the primary sentencing factors here, as Lewis expressly concedes. The circuit court discussed the gravity of the offenses, finding that while Lewis's failure to report to jail was merely a "really bad decision," the attempted homicide was "incredibly serious." The circuit court discussed Lewis's character, finding that he was a "basically decent guy" who, at 41 years old, had spent many years working and raising a family. The circuit court also found, however, that although Lewis had only a limited prior record, he had been convicted of first-degree reckless injury earlier that same year after shooting one of his adult sons. He had then failed to take advantage of the opportunities for therapy and alcohol treatment that were available to him while on probation for that offense, and he had ignored a court order to report to jail to serve the time imposed as a condition of his probation. Turning to the need to protect the public, the circuit court found that Lewis had the capacity to be a "productive member of the community," but had gone "far off the rails," committing violent crimes against his wife and son and doing incalculable damage to his family.

Upon review of the relevant factors, the circuit court agreed with the State's position that Lewis must serve not less than 15 years of initial confinement to accomplish the sentencing goals of punishment and deterrence. The circuit court also concluded that Lewis must serve ten years of extended supervision in light of the programs that the circuit court believed he must complete in order to play a positive role in his family's life. The aggregate sentence imposed may have disappointed Lewis but it was well below the aggregate 77-year term of imprisonment that he faced and cannot be considered unusual, disproportionate, or shocking. *See* ***id.***

Lewis nonetheless asserts that his term of confinement is longer than required to meet the sentencing goals, and he asks us to direct the circuit court to impose a shorter term. However, the circuit court, not this court, must "navigate the fine line between what is clearly too much

time behind bars and what may not be enough." ***State v. Ramuta***, 2003 WI App 80, ¶25, 261 Wis. 2d 784, 661 N.W.2d 483. Indeed, "no appellate-court-imposed tuner can ever modulate with exacting precision the exercise of sentencing discretion." ***Id.*** The circuit court here carefully explained its sentencing rational, considered proper factors, did not consider any improper factors, and reached a reasonable conclusion. Accordingly, the circuit court properly exercised its sentencing discretion. For all the foregoing reasons, we affirm.

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