

**COURT OF APPEALS
DECISION
DATED AND FILED**

February 1, 2001

Cornelia G. Clark
Clerk, Court of Appeals
of Wisconsin

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

No. 00-0502-CR

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

ANTHONY D. TAYLOR,

DEFENDANT-APPELLANT.

APPEAL from orders of the circuit court for Rock County:
EDWIN C. DAHLBERG, Judge. *Affirmed.*

Before Dykman, P.J., Roggensack and Mason, JJ.¹

¹ Circuit Court Judge James M. Mason is sitting by special assignment pursuant to the Judicial Exchange Program.

¶1 PER CURIAM. Anthony Taylor, *pro se*, appeals from the circuit court's orders denying his motions for postconviction relief. The issues are: (1) whether there was a sufficient factual basis for Taylor's plea; and (2) whether an alleged change in parole board policy is a "new factor" that should allow Taylor to be re-sentenced. We affirm.

¶2 Taylor was released on bond with the condition that he not violate the law when he grabbed Dawn Ryan by her hair and dragged her out of a bar, striking and injuring her. Based on this conduct, he was charged with bail jumping and sentenced, after pleading guilty, to five years in prison. Taylor filed three postconviction motions to withdraw his plea, one before sentencing and two after sentencing. The circuit court denied the motions, and we affirmed.

¶3 Taylor filed two more motions for postconviction relief two years after he was sentenced. The circuit court granted one motion, awarding Taylor additional sentence credit, but denied Taylor's motion for sentence modification. Taylor moved for reconsideration, but his request was denied. Taylor then filed a second motion for reconsideration, arguing that his sentence should be modified because the criminal charge stemming from his battery of Ryan was dismissed. He also contended that there had not been a sufficient factual basis for his plea. The circuit court again denied the motion for reconsideration.

¶4 On appeal, Taylor contends that he is entitled to withdraw his plea because the bail jumping charge was predicated on his physical assault of Ryan, but he was not convicted of the battery charge brought against him for that

conduct.² This argument is unpersuasive. The fact that Taylor was not convicted of battery is irrelevant because the bail jumping charge was predicated on *behavior* that violated the conditions of Taylor’s bond, not on an ultimate criminal conviction for that behavior. When Taylor pled guilty to bail jumping, he admitted he violated his bond by acting unlawfully when he assaulted Ryan. Nothing more is required. *C.f. State v. Dawson*, 195 Wis.2d 161, 170-71, 536 N.W.2d 119 (Ct. App. 1995) (a charge of bail jumping is appropriate where a defendant intentionally fails to comply with the terms of a bond).

¶5 Taylor next argues that the circuit court should have modified his sentence because the State’s parole policy had changed. A defendant seeking sentence modification must show the existence of a “new factor” that he or she believes justifies modifying the sentence. *State v. Franklin*, 148 Wis. 2d 1, 8, 434 N.W.2d 609 (1989). A new factor is a fact “highly relevant to the imposition of sentence, but not known to the trial judge at the time of original sentencing” *Rosado v. State*, 70 Wis. 2d 280, 288, 234 N.W.2d 69 (1975). A change in parole board policy is not a new factor in this case because the State’s parole policy was not “highly relevant” to the imposition of Taylor’s sentence. *Id.* The circuit court did not even mention parole policy in its sentencing remarks. Therefore, Taylor was not entitled to sentence modification.

By the Court.—Orders affirmed.

² Taylor raised this claim in his second motion for reconsideration. A motion to withdraw a guilty plea should be brought within a year, although the circuit court may consider a motion brought later in the exercise of its discretion. *State v. Lee*, 88 Wis. 2d 239, 246, 276 N.W.2d 268 (1979). Because the circuit court reviewed the merits of Taylor’s motion to withdraw his plea, despite the fact that it was belatedly brought, we will also review the merits of the claim.

This opinion will not be published. *See* WIS. STAT. RULE
809.23(1)(b)5 (1999-2000).

