



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215

P.O. BOX 1688

MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880

TTY: (800) 947-3529

Facsimile (608) 267-0640

Web Site: www.wicourts.gov

DISTRICT I

September 9, 2025

To:

Hon. Ellen R. Brostrom
Circuit Court Judge
Electronic Notice

Katie Babe
Electronic Notice

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

Kathleen E. Wood
Electronic Notice

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

2023AP2134-CR

State of Wisconsin v. Ronald N. Ziedman, Jr. (L.C. # 2019CF2620)

Before White, C.J., Colón, P.J., and Donald, 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).

Ronald N. Ziedman, Jr., appeals the judgment, entered on his guilty pleas, convicting him of second-degree recklessly endangering safety; substantial battery intending bodily harm; and operating while intoxicated (OWI), second offense, with a passenger under 16 in the car; all as a repeater. He also appeals the order denying his motion for sentence modification.¹ Based upon

¹ The Honorable Janet C. Protasiewicz presided over Ziedman's combined plea and sentencing hearing. The Honorable Ellen R. Brostrom issued the order denying Ziedman's postconviction motion seeking sentence modification. We refer to Judge Protasiewicz as the circuit court and to Judge Brostrom as the postconviction court.

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).² We affirm.

In 2019, the State charged Ziedman with the following seven counts: (1) abduction, taking a child by force; (2) second-degree recklessly endangering safety; (3) false imprisonment; (4) substantial battery with intent to cause bodily harm; (5) misdemeanor bail jumping; (6) operating a motor vehicle while intoxicated, as a second offense, with a minor in the vehicle; and (7) operating a motor vehicle while revoked. Each of the counts included the repeater enhancer.

According to the complaint, Ziedman drove a vehicle with an adult victim and her ten-month-old child as passengers. He struck the adult victim multiple times and did not allow her to leave the vehicle. Eventually Ziedman stopped the vehicle at a gas station, and a physical altercation ensued. Ziedman and the adult victim struggled over the infant's car seat, causing the infant to fall out of the car seat and hit the ground. The complaint alleged that Ziedman then threw the infant into the vehicle without a car seat, punched the adult victim numerous times causing her to lose consciousness, and drove away.

To substantiate the allegations, the complaint provided a detailed chronology of surveillance video footage provided by the gas station. At the time of the alleged offenses, Ziedman did not have a driver's license, his blood alcohol concentration was above the legal limit, and he was subject to bail conditions, including that he should not commit any new crimes.

² All references to the Wisconsin Statutes are to the 2023-24 version.

During the course of the circuit court proceedings leading up to his guilty pleas, Ziedman's competency was assessed on two different occasions. Both times, the examining psychologist opined that Ziedman was competent to proceed and neither party contested the findings. Ziedman subsequently pled guilty to three of the seven counts he faced. The remaining counts were dismissed and read in.

During the sentencing portion of the hearing, the State sought an unspecified amount of time in prison. In contrast, Ziedman requested an imposed and stayed prison sentence and probation so that he could receive mental health treatment. The circuit court acknowledged Ziedman's need for mental health treatment but nevertheless ordered him to serve a lengthy term of confinement because the offenses were the "apex of seriousness," and probation could not "possibly keep the community safe." The court sentenced Ziedman to consecutive sentences of 6 years of initial confinement and 5 years of extended supervision on the endangering safety count with 516 days of sentence credit; 2 years of initial confinement and 18 months of extended supervision on the substantial battery count; and 18 months of confinement on the OWI count.³ The court concluded its remarks by stating: "These charges are so serious, Mr. Ziedman, that I believe it is critical that you serve every day of the sentence that this [c]ourt is imposing."

Following his conviction, Ziedman sought sentence modification based on a new factor. Ziedman informed the postconviction court that after his conviction, his attorney sought a competency evaluation. Following that evaluation, the same psychologist who conducted the two earlier evaluations found Ziedman incompetent. Ziedman additionally informed the

³ This sentence was later commuted.

postconviction court that his counsel had petitioned for partial guardianship for purposes of appointing a guardian to make Ziedman's postconviction decisions. The probate court ultimately granted guardianship, not based upon counsel's petition for limited guardianship but rather based upon a cross-petition for full guardianship filed by Ziedman's mother.

Ziedman argued that the new factor warranting sentence modification consisted of the full guardianship granted after sentencing and the new information regarding his mental health and intellectual capacity that was gained through the psychological examination that was conducted for purposes of obtaining the guardianship. According to Ziedman, the circuit court imposed a lengthy period of initial confinement at sentencing because it felt it had no other options; however, that was before the safeguards of a guardianship were in place. Ziedman additionally highlighted a remark by the court that it hoped Ziedman would receive mental health treatment while he was in the prison system. In his postconviction motion, Ziedman argued that mental health treatment was not an option that was available to Ziedman via the Department of Corrections, only medication.

The postconviction court denied Ziedman's motion concluding that Ziedman's mental health was not a new factor. The postconviction court explained that at sentencing, the circuit court had the benefit of Ziedman's prior competency evaluations, which included diagnoses of "schizoaffective disorder, bipolar type, and alcohol and cannabis use disorders." The postconviction court noted that during sentencing, trial counsel had explained to the circuit court that Ziedman had "severe mental health problems," had been evaluated "six or seven times" over the span of his life, and three of the evaluations resulted in findings that Ziedman was incompetent or not guilty by reason of mental disease or defect at the time. As summed up by

the postconviction court: “[Ziedman]’s significant mental health needs were well-known to the [circuit] court and are by no means new.”

The postconviction court further concluded that the postconviction guardianship was not a new factor because it was not highly relevant to the sentence imposed. After reviewing the circuit court’s sentencing remarks, the postconviction court explained that it was “not satisfied that releasing [Ziedman] sooner than the sentence imposed ... and turning him over to the custody of his mother would be remotely sufficient to accomplish the sentencing goal of community protection.” The postconviction court further explained that a sentence reduction “would grossly depreciate the seriousness of the offenses.”

The postconviction court concluded by noting that even assuming *arguendo* that Ziedman’s postconviction mental health and guardianship constituted a new factor, modification was not “warranted in light of [Ziedman’s] criminal history and his violent and highly aggravated conduct in this case” and because modification would unduly depreciate the seriousness of the offenses and the need for community protection.

Ziedman renews his postconviction arguments on appeal. “Whether a fact or set of facts presented by the defendant constitutes a ‘new factor’ is a question of law,” which we review independently of the circuit court. *State v. Harbor*, 2011 WI 28, ¶33, 333 Wis. 2d 53, 797 N.W.2d 828 (citation omitted). However, “[t]he determination of whether that new factor justifies sentence modification is committed to the discretion of the circuit court, and we review such decisions for erroneous exercise of discretion.” *Id.*

We turn to the guiding principles for a new-factor analysis. “Within certain constraints, Wisconsin circuit courts have inherent authority to modify criminal sentences.” *Id.*, ¶35. The

court cannot modify a sentence based on reflection and second thoughts; it may, however, modify a sentence upon the defendant's showing of a new factor. *Id.* This is a two-step process.

First, a defendant must show “by clear and convincing evidence the existence of a new factor.” *Id.*, ¶36. 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.” *Id.*, ¶40 (citation omitted).

Second, if a defendant shows a new factor exists, they must then show that the new factor justifies sentence modification. *Id.*, ¶¶37-38. “The existence of a new factor does not automatically entitle the defendant to sentence modification.” *Id.*, ¶37. Rather, circuit courts have discretion to decide if sentence modification is warranted. *Id.* If the defendant fails to satisfy either part of the new factor analysis, the court may deny the request on that basis without addressing the other requirement. *Id.*, ¶38.

Ziedman has not shown the existence of a new factor by clear and convincing evidence. He continues to contend that his postconviction guardianship coupled with additional information about his mental health and intellectual capacity constitute a new factor. Ziedman claims the circuit court had only “partial information” about his mental health, which caused it to impose the term of imprisonment it did “because it felt it had no other options[.]” According to Ziedman, the full guardianship provides protections that no longer necessitate a long period of initial confinement to protect the public. For instance, he references the ability of his mother, in her capacity as guardian, to restrict his mobility and travel and to seek the assistance of the police

in exercising her guardianship rights. Ziedman additionally highlights his limited intellectual capacity, but he does not explain how it was relevant to the imposition of the sentence.

As summed up by the State, Ziedman's position seems to be that if the circuit court had been aware of the subsequent guardianship and deterioration of his mental health, it would have imposed a shorter sentence or agreed that probation was appropriate. There simply is no support for this position in the record.

The circuit court did not make any remarks suggesting that if Ziedman's mental health was more severe, his period of incarceration might decrease or that probation might be appropriate. Ziedman has not shown a connection between the court's sentencing concerns and his subsequent incompetency and guardianship, let alone that his subsequent incompetency and guardianship were highly relevant to the imposition of sentence.⁴ In light of this resolution, we need not address the second step of the analysis. *Harbor*, 333 Wis. 2d 53, ¶38 (holding that "if a court determines that the facts do not constitute a new factor as a matter of law, 'it need go no further in its analysis'" (citation omitted)).

Therefore,

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.

⁴ Ziedman argues that the cases cited by the postconviction court to support its decision are distinguishable. Even if those cases are distinguishable on their facts, the postconviction court properly concluded that neither Ziedman's incompetency nor the guardianship were highly relevant to the sentence given the circuit court's emphasis on the seriousness of the offenses and the need to protect the public.

Samuel A. Christensen
Clerk of Court of Appeals