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 IV

February 5, 2026

To:

Hon. Nicholas J. McNamara
Circuit Court Judge
Electronic Notice

Jeff Okazaki
Clerk of Circuit Court
Dane County Courthouse
Electronic Notice

Jeffrey William Jensen Jr.
Electronic Notice

Anne Christenson Murphy
Electronic Notice

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

2024AP2099-CR State of Wisconsin v. Raymond A. Morel (L.C. # 2022CF1258)

Before Graham, P.J., Blanchard, and Taylor, 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).

Raymond Morel appeals his judgment of conviction for possessing narcotics with the intent to deliver and a circuit court order denying his postconviction motion for sentence modification. Based on our review of the briefs and record, we conclude that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2023-24).[1] Because Morel has not established the existence of a new factor that justifies sentence modification, we summarily affirm.

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

Morel had been convicted of drug-dealing charges in two previous cases and was on extended supervision in 2022 when he was arrested and charged in the case underlying this appeal. The 2022 arrest was the result of a drug investigation focused on a particular apartment. During that investigation, police obtained evidence that, although Morel was not the named lessee of the apartment, he had the ability to access the apartment and did so with some regularity. More specifically, the property manager of the apartment building told a police investigator that Morel's phone number was associated with the apartment and that Morel had been paying rent for the apartment. Additionally, the property manager told the investigator that only one key fob had been provided to the residents of the apartment, and surveillance footage showed that in the days leading up to the conversation with the property manager, Morel had used that key fob to enter the apartment building approximately five times. The property manager also told the investigator that there was a single underground parking stall provided for the apartment, and the investigator observed a vehicle associated with Morel parked in that stall.

Police arrested Morel pursuant to an active warrant as he and another person, Gerrico Holt,[2] were getting into a car outside the apartment building. Police found 88 oxycodone pills, $140 in cash, and several key fobs on Morel's person, and they found a backpack containing $13,000 in cash, six individually packaged bags of marijuana, and five individually packaged bags of cocaine in the car. When they searched the apartment, police found paperwork that was linked to Morel and large quantities of drugs: more than 200 oxycodone pills and various amounts of cocaine, amphetamine, fentanyl, methamphetamine, marijuana, and heroin. The

[2] The complaint identifies this individual as "GH," who was sometimes referred to in the circuit court as "Jared Holt."

State charged Morel with five counts of possession with intent to deliver and one count of maintaining a drug trafficking place.

The parties reached a plea agreement pursuant to which Morel would plead guilty to one count of possession with intent to deliver. This count was based on the 88 oxycodone pills that were in Morel's pocket when he was arrested, and the maximum sentence he could face for a conviction on that count was fifteen years. In exchange for Morel's plea, the State agreed to request dismissal of the other charges and to cap its sentence recommendation at three years of initial confinement and one year of extended supervision, which would be served consecutive to Morel's revocation sentences. The circuit court accepted Morel's plea and proceeded with sentencing.

During the sentencing portion of the hearing, Morel attempted to cast doubt on any suggestion that he was a drug dealer or that the drugs found in the apartment could be attributed to him. He argued that "it was not his apartment" and that "there were multiple people living there, including Mr. Holt." He further stated that he "had an addiction" and the pills found in his pocket were for his "personal use." The circuit court acknowledged that it could not know for certain the extent of Morel's involvement with drug dealing, but the court expressed skepticism that the 88 pills he was carrying was "really personal use," wondering why Morel would keep that many pills on his person "when there's another 200 back at the [apartment]." The court noted Morel's "access to this [apartment] with a whole bunch of other stuff," including drugs and "a lot of cash"; his choice to associate with a person like Holt, who had admitted to selling pills that had resulted in another person's death; and "the circumstantial evidence" that Morel, who had previously been convicted of drug-dealing charges, "is again involved with that." Based on the gravity of the offense, Morel's history, the "particular substance" and "quantities" that Morel

possessed, and the "risk to the public" that was "created by [Morel's] choices," the court sentenced Morel to three years of initial confinement and one year of extended supervision, which would be served consecutive to his other sentences.

Morel filed a postconviction motion based on an alleged new factor. He stated that he had located the lessee of the apartment who, Morel asserted, would testify as follows: when the lessee moved to Florida several months before Morel's arrest, she asked Morel, who already had a key to her apartment, to "keep an eye" on it; later, Morel asked whether Holt could live in the apartment, and the lessee agreed. According to Morel, the lessee would testify as to her understanding that Holt was living in her apartment and Morel lived elsewhere, and this testimony constitutes a new factor justifying sentence modification.

The circuit court denied Morel's motion without a hearing. In so doing, the court rejected Morel's argument that information provided by the lessee should "tip the scales" toward a finding that the drugs in the apartment did not belong to Morel and result in a modified sentence. The court explained that even if Morel's assertions about the lessee's testimony were true, there "remains substantial evidence directly connecting [Morel] to [the apartment], including video surveillance showing him entering the unit with the key fob that he possessed and the presence of his own personal items." Moreover, while the evidence found in the apartment was of a "highly incriminating nature," Morel had been "convicted and sentenced for having 88 pills of oxycodone on his person when arrested," not for possession of the drugs and other items found in the apartment. As the court explained, the possibility that some of the drugs in the apartment did not belong to Morel was already reflected in the sentence Morel received, which the court characterized as "the absolute minimum sentence under all of the facts available to the court."

Morel appeals, arguing that the circuit court was obligated to conduct an evidentiary hearing on his motion. Whether a postconviction motion alleges sufficient facts that, if true, would entitle a defendant to relief is a question of law that we review independently. ***State v. Ruffin***, 2022 WI 34, ¶27, 401 Wis. 2d 619, 974 N.W.2d 432. "If the motion does not raise facts sufficient to entitle the defendant to relief, or if it presents only conclusory allegations, or if the record conclusively demonstrates that the defendant is not entitled to relief," it is within the circuit court's discretion to deny the motion without holding a hearing, as the circuit court did here. *See* ***id.***, ¶28.

Morel contends that the evidence described in his postconviction motion is a "new factor," which is defined as "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, even though it was then in existence, it was unknowingly overlooked by all of the parties." *See* ***State v. Harbor***, 2011 WI 28, ¶40, 333 Wis. 2d 53, 797 N.W.2d 828 (citation omitted). Whether the facts presented by a defendant constitute a new factor is a question of law that we review independently. ***Id.***, ¶36. If a new factor is established, the circuit court has discretion to determine whether it justifies sentence modification. ***Id.***, ¶37.

We begin by considering whether the facts described in Morel's postconviction motion, which relate to the lessee's understanding that Morel did not live in the apartment, constitute a new factor as a matter of law. We conclude that they do not. First, Morel specifically raised the issue of who actually lived in the apartment during the sentencing hearing. Accordingly, Morel did not "overlook" the issue about who lived in the apartment; he simply relied on his own statements about the subject. It is true that the court did not have any statements from the lessee to bolster Morel's assertions at sentencing, but Morel offers no explanation as to why he could

not have obtained a statement from the lessee prior to sentencing. Accordingly, it does not appear that the facts that Morel seeks to introduce are actually "new."

Perhaps more importantly, the record shows that the question of who lived at the apartment was not "highly relevant to the sentence imposed." Regardless of who was actually living at the apartment, the evidence left no doubt that Morel had access to the apartment (and therefore to the drugs and cash kept there) and that he had a large quantity of oxycodone on his person. These are the facts, along with Morel's history of selling drugs and decision to associate with Holt, that led to the circuit court's conclusion that Morel was involved to some extent with drug dealing and to the sentence the court imposed.[3] The record makes clear that the court would have drawn the same inferences even if there had been testimony from the lessee supporting Morel's assertion that he did not live in the apartment.

Accordingly, as a matter of law, Morel's postconviction motion does not allege the existence of a new factor as that term is defined in the sentence modification context. *See* ***id.***, ¶40. Under these circumstances, the circuit court was not required to hold a hearing on Morel's postconviction motion. We therefore affirm.

[3] In addition to his "new factor" argument, Morel's appellate brief refers to his "due process right to be sentenced on the basis of accurate information." *See* ***State v. Tiepelman***, 2006 WI 66, ¶9, 291 Wis. 2d 179, 717 N.W.2d 1. Assuming without deciding that Morel could raise this issue at this stage of the proceedings, the circuit court did not rely on inaccurate information. Setting aside the fact that, as Morel concedes, the lessee was living in Florida at the time of his arrest and "cannot say for sure what was happening in her apartment," we have already explained that Morel's sentence was based on the accurate information that he had a history of drug dealing, his access to an apartment containing drugs and cash, and the 88 oxycodone pills on his person when he was arrested. As discussed, the significant fact was Morel's undisputed access to the apartment, and whether he was or was not living in the apartment at the time did not factor into the sentencing decision.

IT IS ORDERED that the judgment and order of the circuit court 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