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DISTRICT II

March 18, 2026

To:

Hon. Bridget Schoenborn
Circuit Court Judge
Electronic Notice

Monica Paz
Clerk of Circuit Court
Waukesha County Courthouse
Electronic Notice

Nicholas DeSantis
Electronic Notice

Laura M. Force
Electronic Notice

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

2024AP2021-CR State of Wisconsin v. John Doe

Before Neubauer, P.J., Gundrum, and Lazar, 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).

John Doe[1] appeals from a judgment of conviction and an order denying his postconviction motion for sentence modification. He alleges the existence of new factors. 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).[2] We affirm.

[1] Because of the nature of this case, this court has amended the caption to assign the pseudonym "John Doe" to the appellant.

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

In 2023, Doe pled no contest to possession of a firearm by a felon as a repeater. The charge stemmed from an incident in which Doe—a convicted felon—handled firearms while at a sporting goods store with his girlfriend.[3] Pursuant to a plea agreement, several other charges were dismissed and read in.

At sentencing, the circuit court and parties discussed Doe's previous assistance to law enforcement and how such involvement was dangerous for him and his family. Defense counsel also informed the court of Doe's rehabilitative needs and his hopes of participating in treatment programs during incarceration.

Ultimately, the circuit court imposed a sentence of three years of initial confinement and three years of extended supervision. In doing so, the court emphasized the need for punishment and deterrence, as Doe had been convicted of possession of a firearm by a felon on two prior occasions. The court acknowledged Doe's "potential for substance abuse issues"; however, it declined to make him eligible for early release treatment programs given his history.

Doe filed a timely notice of intent to pursue postconviction relief. He then filed a postconviction motion for sentence modification alleging the existence of new factors. First, Doe cited his assistance to law enforcement before and after sentencing. Second, Doe pointed to an alcohol and other drug abuse (AODA) evaluation completed after sentencing that found his treatment needs to be a high priority.

[3] Doe's girlfriend attempted to purchase a firearm at the store. Her purchase was declined because she did not have a valid driver's license.

After a hearing on the matter, the circuit court denied the motion. The court was not persuaded that Doe had demonstrated the existence of a new factor. This appeal follows.

A circuit court may modify a sentence upon a defendant's showing of a new factor. ***State v. Harbor***, 2011 WI 28, ¶35, 333 Wis. 2d 53, 797 N.W.2d 828. A new factor is "'a fact or set of facts highly relevant to the imposition of sentence, but not known to the [circuit court] 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 (quoting ***Rosado v. State***, 70 Wis. 2d 280, 288, 234 N.W.2d 69 (1975)). Whether a fact or set of facts constitutes a new factor is a question of law that this court reviews independently. *See* ***Harbor***, 333 Wis. 2d 53, ¶33.

Like the circuit court, we are not convinced that Doe has demonstrated the existence of a new factor with respect to his assistance to law enforcement. Doe's pre-sentencing assistance was not a new factor because it was a fact known to the court at the time of sentencing. Meanwhile, his post-sentencing assistance was not a new factor because its significance was unclear. At the hearing on Doe's motion, a detective confirmed receiving information from Doe relating to drug activity and cold-case homicides but said that it had yet to be investigated due to his agency "prioritizing more pertinent investigations." Therefore, the detective could not say for certain that the information was reliable. Under these circumstances, we cannot say that Doe's assistance was "substantial and important" so as to constitute a new factor. *See* ***State v. Doe***, 2005 WI App 68, ¶1, 280 Wis. 2d 731, 697 N.W.2d 101 (recognizing that a defendant's substantial and important assistance to law enforcement may constitute a new factor).

We are also not convinced that Doe has shown the existence of a new factor with respect to the AODA evaluation. As noted, at sentencing, defense counsel informed the circuit court of

Doe's rehabilitative needs and his hopes of participating in treatment programs during incarceration. While the AODA evaluation may have been completed after sentencing, the essential information it contained—that Doe had substance abuse issues and could benefit from treatment—was already known to the court at the time of sentencing. Indeed, the court expressly recognized Doe's "potential for substance abuse issues" in its sentencing remarks. Because the information regarding Doe's treatment needs was not new, the AODA evaluation does not constitute a new factor.

Upon the foregoing reasons,

IT IS ORDERED that the judgment and order of the circuit court are summarily affirmed, pursuant to 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