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DISTRICT IV

October 31, 2024

To:

Hon. John M. Wood
Circuit Court Judge
Electronic Notice

Christine A. Remington
Electronic Notice

Amanda Nelson
Clerk of Circuit Court
Rock County Courthouse
Electronic Notice

Raymond C. Williams 170813
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Stanley, WI 54768

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

2023AP1722-CR

State of Wisconsin v. Raymond C. Williams (L.C. # 2009CF915)

Before Kloppenburg, P.J., Graham, 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 Williams, pro se, appeals a circuit court order denying his motion for sentence modification. He argues that this court's prior reversal of one of his two convictions is a new factor that justifies modification of his remaining sentence. Based on our review of the briefs and the record, we conclude at conference that this case is appropriate for summary disposition. See WIS. STAT. RULE 809.21(1).¹ We affirm.

¹ All references to the Wisconsin Statutes are to the 2021-22 version.

Williams was convicted of hiding a corpse and kidnapping another person to assist him in hiding the corpse. The circuit court sentenced him to a ten-year prison sentence on the hiding a corpse charge and a forty-year prison sentence on the kidnapping charge. The court imposed the sentences consecutive to one another.

In a previous appeal, this court overturned the conviction for hiding a corpse.² We concluded that the evidence was insufficient to satisfy the “hiding” element of that offense because Williams had left the body in a city park visited regularly by members of the public, in an active work site, no more than twenty feet from a public road.

Williams filed a motion for sentence modification on the primary ground that this court’s reversal of his conviction for hiding a corpse is a new factor that justifies modification of his sentence for kidnapping. The circuit court denied the motion. It concluded that the reversal of Williams’ conviction for hiding a corpse is not a new factor.

Whether to modify a sentence based on a new factor is a two-step inquiry. *State v. Harbor*, 2011 WI 28, ¶36, 333 Wis. 2d 53, 797 N.W.2d 828. First, the defendant has the burden to demonstrate by clear and convincing evidence that a new factor exists. *Id.* Whether a new factor exists is a question of law that we review de novo. *Id.* Second, if a new factor exists, the circuit court has discretion to decide whether the new factor justifies modification of the defendant’s sentence. *Id.*, ¶37. In this case, we do not address the second step of this inquiry because, for reasons we now explain, we agree with the circuit court that Williams has not shown the existence of a new factor.

² *State v. Williams*, No. 2011AP1745, unpublished op. and order (WI App Aug. 29, 2012).

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, even though it was then in existence, it was unknowingly overlooked by all of the parties.”” *Id.*, ¶40 (quoted source omitted).

Here, there is no dispute that the reversal of Williams’ conviction for hiding a corpse meets part of this definition. It was not known to the circuit court at the time of Williams’ sentencing. However, the parties disagree on whether it is highly relevant to the imposition of his sentence for kidnapping.

Williams argues that it is highly relevant because the two crimes were factually connected and because the circuit court considered them “in tandem.” They were part of the same course of conduct, and one of the crimes (kidnapping) was done in furtherance of the other (hiding a corpse). Williams argues that in these circumstances, his conviction for hiding a corpse undoubtedly must have influenced the circuit court’s view of his sentence for kidnapping.

The State argues that the circuit court’s sentencing decision shows that the court considered each sentence separately. It also argues that the grounds for reversing Williams’ conviction for hiding a corpse—insufficiency of the evidence on the “hiding” element—did not implicate any of the factors that the court considered at sentencing on the kidnapping conviction.

We agree with the State’s arguments. At sentencing, the circuit court made clear that it was imposing Williams’ sentences on his two convictions consecutive to one another because his decision to engage in the kidnapping was separate from and independent of his decision to dispose of the corpse. The court stated: “I am making that sentence on Count 2 [kidnapping] consecutive to [C]ount 1 [hiding a corpse]. And I do that because you could have done

[C]ount 1 on your own. You didn't have to drag in, kidnap [another victim], impress your will upon her to get her involved in these particular matters." Nothing in the court's sentencing remarks suggests that its sentencing rationale was tied to whether Williams' conduct in disposing of the corpse satisfied the legal definition of "hiding a corpse."

In a separate argument, Williams contends that the circuit court was biased and vindictive by refusing to allow or consider certain evidence at sentencing. However, Williams does not explain how this alleged bias and vindictiveness could satisfy the definition of a new factor. Other arguments that Williams makes are similarly undeveloped or raised for the first time in his reply brief. We do not address those arguments further. See *State v. Pettit*, 171 Wis. 2d 627, 646, 492 N.W.2d 633 (Ct. App. 1992) ("We may decline to review issues inadequately briefed."); *Bilda v. County of Milwaukee*, 2006 WI App 57, ¶20 n.7, 292 Wis. 2d 212, 713 N.W.2d 661 ("It is a well-established rule that we do not consider arguments raised for the first time in a reply brief.").

Therefore,

IT IS ORDERED that the circuit court's order is summarily affirmed pursuant to WIS. STAT. RULE 809.21(1).

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Samuel A. Christensen
Clerk of Court of Appeals