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**DISTRICT II**

July 23, 2025

*To:*

Hon. Angelina Gabriele  
Circuit Court Judge  
Electronic Notice

Sara Lynn Shaeffer  
Electronic Notice

Rebecca Matoska-Mentink  
Clerk of Circuit Court  
Kenosha County Courthouse  
Electronic Notice

Jubilee S. Braithwaite #497917  
New Lisbon Correctional Inst.  
P.O. Box 2000  
New Lisbon, WI 53950-2000

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

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2024AP523-CR

State of Wisconsin v. Jubilee S. Braithwaite (L.C. #2016CF1090)

Before Gundrum, P.J., Grogan, 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).**

Jubilee S. Braithwaite, pro se, appeals from an order denying his petition seeking sentence adjustment under WIS. STAT. § 973.195 (2023-24)<sup>1</sup> for one of his convictions from a 2017 judgment entered after he pled guilty. Braithwaite makes two arguments: (1) the district attorney committed misconduct by sending a letter to the circuit court objecting to his sentence adjustment request without sending him a copy; and (2) the court erroneously exercised its discretion when it relied on the district attorney's letter in denying his request for sentence adjustment without first ensuring he received a copy of the letter and had an opportunity to

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2023-24 version.

respond to it. 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. We affirm.

In 2017, Braithwaite pled guilty to three counts of robbing a bank while using a dangerous weapon. The other nine counts for which he was charged were dismissed but read in. The circuit court sentenced him to seven years of initial confinement followed by six years of extended supervision on each of the three counts, consecutive. We affirmed the judgment on his direct appeal and on his WIS. STAT. § 974.06 appeal. *State v. Braithwaite*, No. 2018AP1141-CR, unpublished op. and order (WI App Mar. 6, 2019); *State v. Braithwaite*, Nos. 2020AP1220 and 2020AP1221, unpublished op. and order (WI App Dec. 8, 2021).

In November 2023, Braithwaite filed a WIS. STAT. § 973.195 petition seeking sentence adjustment on one of the counts. In January 2024, the district attorney filed a letter with the circuit court objecting to any sentence adjustment for the following reasons: (1) the crimes were “just to[o] severe to consider releasing [Braithwaite]” early; (2) Braithwaite had only served just under one-third of the total initial confinement portion of his sentence and still had 14 more years to serve; (3) he committed “15 conduct violations” while incarcerated, which signaled he cannot comply with rules and is not yet reformed; and (4) his “prior record shows escalating behavior from [Braithwaite] culminating with bank robbery.” The district attorney’s objection letter advised that reducing Braithwaite’s “sentence would not be in the public’s best interest and would send the wrong message to the community.” The letter indicates that the “Defendant,” i.e., Braithwaite, was sent a copy.

In February 2024, Braithwaite wrote another letter to the circuit court inquiring when it would decide his sentence adjustment petition. A few days later, the court entered an order

denying the sentence adjustment petition for two reasons: (1) it would not be in the public’s best interest to grant Braithwaite’s petition—for the reasons the district attorney set forth in its objection letter; and (2) the district attorney objected to the petition. Braithwaite appeals.

To be considered for sentence adjustment, an inmate must establish one of four grounds specified in WIS. STAT. § 973.195(1r)(b). *State v. Stenklyft*, 2005 WI 71, ¶25, 281 Wis. 2d 484, 697 N.W.2d 769. A circuit court’s decision to grant or deny a petition for sentence adjustment is reviewed by this court under the erroneous exercise of discretion standard. *Id.*, ¶¶81-83, 112 (Abrahamson, C.J., concurring in part and dissenting in part). The applicable standard that the circuit court must apply is whether the “sentence adjustment is in the public interest[.]” Sec. 973.195(1r)(f).

WISCONSIN STAT. § 973.195(1r)(b) sets forth the grounds a defendant must show to obtain sentence adjustment:

1. The inmate’s conduct, efforts at and progress in rehabilitation, or participation and progress in education, treatment, or other correctional programs since he or she was sentenced.
3. A change in law or procedure related to sentencing or revocation of extended supervision effective after the inmate was sentenced that would have resulted in a shorter term of confinement in prison or, if the inmate was returned to prison upon revocation of extended supervision, a shorter period of confinement in prison upon revocation, if the change had been applicable when the inmate was sentenced.
4. The inmate is subject to a sentence of confinement in another state or the inmate is in the United States illegally and may be deported.
5. Sentence adjustment is otherwise in the interests of justice.

Braithwaite's petition did not mark any of these grounds as the basis for his petition. Instead, he attached a "SUPPLEMENT" indicating he sought sentence adjustment because he was sorry and remorseful; he has spent time reflecting on "the negative impact" of his actions; he has completed five credits in literacy and positive psychology classes that have helped his rehabilitation; he has maintained employment with above average evaluations; he has learned from his mistakes; and he regrets his "lack of good judgment." The only possible statutory ground supporting his motion appears to be § 973.195(1r)(b)1.

The Record reflects that the circuit court properly exercised its discretion when it denied Braithwaite's petition for sentence adjustment. It relied on the district attorney's letter, which set forth valid reasons to deny the petition and specifically explained that Braithwaite's crimes were very serious, his infractions in prison demonstrated he had not reformed his criminal behavior, and he had not yet served even half of his total initial confinement sentence. For all these reasons, the court did not erroneously exercise its discretion in denying Braithwaite's petition, as granting the petition would be contrary to the public interest.

Braithwaite also asserts that his rights were violated because he never received a copy of the district attorney's letter and the circuit court decided his petition without affording him an opportunity to respond to the district attorney's position. The Record, however, indicates that Braithwaite was copied on the letter, and we therefore presume he received it. *See State ex rel. Flores v. State*, 183 Wis. 2d 587, 612, 516 N.W.2d 362 (1994) ("It is well established that the mailing of a letter creates a presumption that the letter was delivered and received."). The burden then shifts to Braithwaite to present "credible evidence of non-receipt." *Id.* at 613. He has failed to do so as simply making a self-serving, conclusory allegation that he did not receive the letter is insufficient.

Further, there was no basis to grant Braithwaite's sentence adjustment petition given the serious nature of the crime, Braithwaite's numerous infractions demonstrating his lack of reform, and that sentence adjustment would not be in the public interest. Consequently, even if Braithwaite had an opportunity to respond to the district attorney's objection letter, it would not have made a difference.<sup>2</sup>

Upon the foregoing reasons,

IT IS ORDERED that the order of the circuit court is summarily affirmed. *See* WIS. STAT. RULE 809.21.

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

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*Samuel A. Christensen*  
*Clerk of Court of Appeals*

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<sup>2</sup> We acknowledge that the two work performance reviews Braithwaite attached to his petition that are dated April 28, 2020, and October 23, 2023, indicate he is a good worker with a positive attitude. Ultimately, however, that does not alter our analysis.