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Supreme Court of Wisconsin

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June 16, 2021

To:

Hon. Darcy Jo Rood
Circuit Court Judge
Vernon County Courthouse
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You are hereby notified that the Court has entered the following order:

No. 2020AP29-CR

State v. Whitaker L.C.#2017CF163

A petition for review pursuant to Wis. Stat. § 808.10 having been filed on behalf of defendant-appellant-petitioner, Westley D. Whitaker, and considered by this court;

IT IS ORDERED that the petition for review is granted as to issues one and two only, and that **except as otherwise ordered herein**, pursuant to Wis. Stat. § (Rule) 809.62(6), the defendant-appellant-petitioner may not raise or argue issues not set forth in the petition for review unless otherwise ordered by the court; and

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IT IS FURTHER ORDERED that pursuant to Wis. Stat. §§ (Rules) 809.62(6) and 809.63, within 30 days after the date of this order the defendant-appellant-petitioner must file a brief in this court; that within 20 days of filing the plaintiff-respondent, State of Wisconsin, must file either a brief or a statement that no brief will be filed; and that if a brief is filed by the plaintiff-respondent, within 10 days of filing the defendant-appellant-petitioner must file either a reply brief or a statement that no reply brief will be filed; and

IT IS FURTHER ORDERED that the parties' briefs shall address the following additional issue:

Does the sentencing factor/objective of "protection of the public" include permitting the sentencing court to increase the sentence imposed on the defendant to send a message to an identified set of third parties that they should alter their behavior in the future, apart from generally being deterred from committing offenses like those committed by the defendant?; and

IT IS FURTHER ORDERED that in any brief filed in this court the parties shall not incorporate by reference any portion of their court of appeals' brief or petition for review or response; instead, any material in these documents upon which there is reliance should be restated in the brief filed in this court; and

IT IS FURTHER ORDERED that the first brief filed in this court must contain, as part of the appendix, a copy of the decision of the court of appeals in this case; and

IT IS FURTHER ORDERED that, if a party has not previously filed an electronic copy of the briefs filed on behalf of that party in the court of appeals, the party, within 30 days after the date of this order, must provide the clerk of this court with 10 copies of the brief previously filed on behalf of that party in the court of appeals; but if the party has already filed an electronic copy of such briefs, then there is no obligation to provide additional copies of those briefs to the clerk of this court; and

IT IS FURTHER ORDERED that the allowance of costs, if any, in connection with the granting of the petition will abide the decision of this court on review.

Sheila T. Reiff
Clerk of Supreme Court