

**COURT OF APPEALS
DECISION
DATED AND FILED**

August 12, 2008

David R. Schanker
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2007AP2554-CR

Cir. Ct. No. 1983CF5190

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

v.

LARRY JOE BROWN,

DEFENDANT-APPELLANT.

APPEAL from an order of the circuit court for Milwaukee County:
JEFFREY A. WAGNER, Judge. *Affirmed.*

Before Curley, P.J., Wedemeyer¹ and Fine, JJ.

¶1 PER CURIAM. Larry Joe Brown, *pro se*, appeals from an order denying his motion for sentence modification. The circuit court rejected Brown's

¹ This opinion was circulated and approved before Judge Wedemeyer's death.

contention that a change in parole policy constituted a new factor. Because the circuit court did not err, we affirm.

¶2 In 1983, Brown pled guilty to and was convicted of four counts of first-degree sexual assault and two counts of armed robbery. He was sentenced to four consecutive twenty-year sentences and two concurrent twenty-year sentences. Since then, Brown has litigated six challenges to his conviction or sentence. Among those challenges were two motions in which Brown asserted that a 1988 change in parole policy constituted a new factor that warranted the modification of his sentence. The circuit court denied each motion, and this court affirmed. *State v. Brown*, No. 1992AP2043-CR, unpublished slip op. (WI App Oct. 19, 1993); *State v. Brown*, No. 1996AP400, unpublished slip op. (WI App Mar. 13, 1998).

¶3 In the motion that underlies this latest appeal, Brown again argued that the 1988 change in parole policy constitutes a new factor and, therefore, he asked the circuit court to modify his sentence. As noted, the circuit court denied Brown's motion.

¶4 This appeal is Brown's third attempt to transform changing parole policy directives into a new factor. As we have done previously, we reject Brown's contention. An issue previously considered cannot be relitigated, "no matter how artfully [Brown] may rephrase the issue." *State v. Witkowski*, 163 Wis. 2d 985, 990, 473 N.W.2d 512 (Ct. App. 1991). Moreover, since Brown's last foray into this question, the merits of his legal argument have been considered and

rejected by this court. *See State v. Delaney*, 2006 WI App 37, ¶¶17-21, 289 Wis. 2d 714, 712 N.W.2d 368. Thus, Brown's argument fails on the merits.

By the Court.—Order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5. (2005-06).

