

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**June 28, 2011**

A. John Voelker  
Acting 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. 2010AP1407**

Cir. Ct. No. 2007CF2545

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT I**

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**STATE OF WISCONSIN,**

**PLAINTIFF-RESPONDENT,**

**v.**

**JACARR CANTA JOHNSON,**

**DEFENDANT-APPELLANT.**

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APPEAL from an order of the circuit court for Milwaukee County:  
CARL ASHLEY, Judge. *Affirmed.*

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

¶1 PER CURIAM. Jacarr Canta Johnson, *pro se*, appeals an order denying his motion for postconviction relief brought pursuant to WIS. STAT. § 974.06. Johnson argues that his sentence violated the Eighth Amendment prohibition against cruel and unusual punishment because it was excessive and

overly harsh. He also argues that the circuit court misused its sentencing discretion because it imposed a longer sentence on him than sentences received by other defendants convicted of these offenses in Milwaukee County. We affirm.

¶2 Johnson pled guilty to one count of armed robbery and two counts of robbery. He was sentenced to twenty-five years of imprisonment for the armed robbery conviction, with fifteen years of initial confinement and ten years of extended supervision, twelve years for the first robbery charge, with seven years of initial confinement and five years of extended supervision, and twelve years on the second robbery charge, with six years of initial confinement and six years of extended supervision. The sentences were imposed consecutively. Johnson moved for postconviction relief pursuant to WIS. STAT. § 974.06. The circuit court denied the motion.

¶3 Johnson first argues that his sentence violated the Eighth Amendment prohibition against cruel and unusual punishment because it was excessive and overly harsh. He contends the sentence is too long in light of the circumstances of the crimes; no one was physically harmed during the robberies and he did not use or brandish a weapon.

¶4 “A sentence is unduly harsh, excessive and violative of the Eighth Amendment when it is ‘so excessive and unusual and so disproportionate to the offense committed as to shock public sentiment and violate the judgment of reasonable people concerning what is right and proper under the circumstances.’” *State v. Berggren*, 2009 WI App 82, ¶47, 320 Wis. 2d 209, 240, 769 N.W.2d 110, 124–125 (citation omitted). Johnson had a prior armed robbery conviction and was on parole for that conviction when he committed these crimes. He robbed three separate banks over a two-month period, planning each robbery in advance.

Although he may not have used or brandished a weapon, he *threatened* to shoot or harm the tellers, placing them in fear for their safety. Under these circumstances, we conclude that the sentence, which was well within the maximum, does not shock public sentiment or violate the judgment of reasonable people concerning what is right and proper under the circumstances.

¶5 Johnson next argues that he is entitled to relief because his sentence is longer than sentences received by other defendants convicted of these offenses in Milwaukee County. He points to various cases over the last thirty years in which the defendants received shorter sentences for robbery and armed robbery, but provides no details about the circumstances of those cases. “There is no requirement that defendants convicted of committing similar crimes ... receive equal or similar sentences.” *State v. Lechner*, 217 Wis. 2d 392, 427, 576 N.W.2d 912, 928 (1998). “On the contrary, individualized sentencing is a cornerstone to Wisconsin’s system of ... sentencing [because] [n]o two convicted felons stand before the sentencing court on identical footing.” *Id.*, 217 Wis. 2d at 427, 576 N.W.2d at 928–929 (citation and quotation marks omitted; some formatting altered). Since “no two cases will present identical factors,” the circuit court must “assess the crime, the criminal, and the [needs of the] community” in each particular case. *Id.*, 217 Wis. 2d at 427, 576 N.W.2d at 929. Here, the circuit court did just that; it fashioned the sentence to fit the circumstances of Johnson’s situation. Therefore, we reject this argument.

*By the Court.*—Order affirmed.

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

